

July 31, 2014

VIA CERTIFIED MAIL

Information and Privacy Coordinator
Central Intelligence Agency
Washington, DC 20505

Re: Freedom of Information Act Request

Dear FOIA Officer,

This letter constitutes a request under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, and is submitted on behalf of the Electronic Privacy Information Center (“EPIC”) to the U.S. Central Intelligence Agency (“CIA”).

EPIC seeks all final reports of the CIA Inspector General regarding the CIA’s involvement in the penetration of the Senate Intelligence Committee’s computer network.

Background

In March 2014, Senator Dianne Feinstein (D, CA), head of the Senate Intelligence Committee, publicly accused the CIA of secretly removing documents from the Committee, searching computers used by the Committee, and attempting to intimidate congressional investigators by requesting an FBI inquiry of their conduct.¹ The Committee had been investigating the CIA’s detention and interrogation program.² As part of the Committee’s investigation, it was given what the CIA assured it was a secure, walled-off computer on the CIA’s premises so that the Committee could document its investigation as it reviewed the agency’s files.³ Despite the CIA’s assurances that this drive would only be accessible to Committee staff, the agency accessed and searched the Committee’s files in that drive.⁴

¹ Greg Miller, Ed O’Keefe, Adam Goldman, *Feinstein: CIA Searched Intelligence Committee Computers*, Washington Post, Mar. 11, 2014, http://www.washingtonpost.com/world/national-security/feinstein-cia-searched-intelligence-committee-computers/2014/03/11/982cbc2c-a923-11e3-8599-ce7295b6851c_story.html

² Senator Dianne Feinstein, *Statement on Intel Committee’s CIA Detention, Interrogation Report*, Mar. 11, 2014, <http://www.feinstein.senate.gov/public/index.cfm/2014/3/feinstein-statement-on-intelligence-committee-s-cia-detention-interrogation-report>

³ *Id.*

⁴ *Id.*

CIA Director John Brennan disputed charges that the agency had conducted an improper search, stating “Nothing could be further from the truth.”⁵

However, on July 31, 2014, the CIA confirmed that the CIA’s Inspector General had conducted an investigation and concluded that the agency had “improperly” accessed Senate computers.⁶ Public statements by the agency indicate that the CIA inspector general found “that some CIA employees acted in a manner inconsistent with the common understanding reached” between the agency and the Committee.⁷

Media reports indicate that CIA Director John Brennan had briefed Senators Feinstein and Chambliss (R-GA) about the report and that “The director . . . apologized to them for such actions by CIA officers as described in the OIG [Office of Inspector General] Report.”⁸

Senator Feinstein issued a public statement, acknowledging the report and Director Brennan’s apology: “The investigation confirmed what I said on the Senate floor in March — CIA personnel inappropriately searched Senate Intelligence Committee computers in violation of an agreement we had reached, and, I believe, in violation of the constitutional separation of powers. Director Brennan apologized for these actions and submitted the IG report to an accountability board.”⁹

Senator Ron Wyden, who also sits on the Intelligence Committee, remarked that, “The C.I.A. inspector general has confirmed what senators have been saying all along: The C.I.A. conducted an unauthorized search of Senate files, and attempted to have Senate staff prosecuted for doing their jobs. Director Brennan’s claims to the contrary were simply not true.”¹⁰

On July 31, 2014, the CIA released a one-page summary of the Inspector General’s report.¹¹ But this summary does not provide sufficient detail for the public to evaluate the agency’s actions. It does not include essential details, for instance: the level

⁵ Hasani Gittens and Andrea Mitchell, *CIA Director Brennan Apologizes to Senate Leaders for Computer ‘Hack,’* NBC News, July 31, 2014, <http://www.nbcnews.com/news/us-news/cia-director-brennan-apologizes-senate-leaders-computer-hack-n169706>

⁶ Jonathan S. Landay and Ali Watkins, *Contradicting Earlier Claims, CIA Admits it Improperly Accessed Senate Computers,* McClatchy DC, July 31, 2014, <http://www.mcclatchydc.com/2014/07/31/234997/cia-staffers-accessed-senate.html#storylink=cpy>

⁷ Hasani Gittens and Andrea Mitchell, *CIA Director Brennan Apologizes to Senate Leaders for Computer ‘Hack,’* NBC News, July 31, 2014, <http://www.nbcnews.com/news/us-news/cia-director-brennan-apologizes-senate-leaders-computer-hack-n169706>

⁸ Jonathan S. Landay and Ali Watkins, *Contradicting Earlier Claims, CIA Admits it Improperly Accessed Senate Computers,* McClatchy DC, July 31, 2014, <http://www.mcclatchydc.com/2014/07/31/234997/cia-staffers-accessed-senate.html#storylink=cpy>

⁹ Hasani Gittens and Andrea Mitchell, *CIA Director Brennan Apologizes to Senate Leaders for Computer ‘Hack,’* NBC News, July 31, 2014, <http://www.nbcnews.com/news/us-news/cia-director-brennan-apologizes-senate-leaders-computer-hack-n169706>

¹⁰ *Id.*

¹¹ Central Intelligence Agency, Office of the Inspector General, Summary of Report, July 31, 2014, [www.washingtonpost.com/r/2010-2019/WashingtonPost/2014/07/31/National-Security/Graphics/Cleaned2014-07-30 Unclass Summary of RDI ROI 31 Jul 14.pdf](http://www.washingtonpost.com/r/2010-2019/WashingtonPost/2014/07/31/National-Security/Graphics/Cleaned2014-07-30%20Unclass%20Summary%20of%20RDI%20ROI%2031%20Jul%2014.pdf)

of seniority of the agency officials who accessed the Committee computers, the number of times the computers were accessed, specifically what files or documents were access, what was done with the improperly accessed data from the computers, and what remedies the Inspector General recommends.

Documents Requested

EPIC seeks all final reports, executive summaries, and related investigatory documents regarding the CIA Inspector General regarding CIA's involvement in the penetration of the Senate Intelligence Committee's computer network.

Request for Expedited Processing

This request warrants expedited processing because it is made by “a person primarily engaged in disseminating information . . .” and it pertains to a matter about which there is an “urgency to inform the public about an actual or alleged federal government activity.”¹²

EPIC is “primarily engaged in disseminating information.”¹³

There is a particular urgency for the public to obtain information about the Inspector General's oversight of the CIA's improper search of Senate Intelligence Committee computers.

The CIA's improper search spawned numerous news reports,¹⁴ Congressional statements,¹⁵ and calls for reform.

There is an urgent need for the public to learn the details of the CIA's spying. As Senator Feinstein pointed out, the CIA's actions “may well have violated the separation of powers principles embodied in the United States Constitution, including the Speech and Debate clause. It may have undermined the constitutional framework essential to effective congressional oversight of intelligence activities or any other government function. . . . Besides the constitutional implications, the CIA's search may also have violated the Fourth Amendment, the Computer Fraud and Abuse Act, as well as

¹² 5 U.S.C. § 552(a)(6)(E)(v)(II) (2008); *Al-Fayed v. CIA*, 254 F.3d 300, 306 (D.C. Cir. 2001).

¹³ *American Civil Liberties Union v. Department of Justice*, 321 F. Supp. 2d 24, 29 n.5 (D.D.C. 2004).

¹⁴ See e.g. Mark Mazzetti, *CIA Admits Penetrating Senate Intelligence Computers*, New York Times, July 31, 2014, http://www.nytimes.com/2014/08/01/world/senate-intelligence-committee-cia-interrogation-report.html?_r=1; Spencer Ackerman, *CIA Admits to Spying on Senate Staffers*, Guardian, July 31, 2014, <http://www.theguardian.com/world/2014/jul/31/cia-admits-spying-senate-staffers>.

¹⁵ Senator Dianne Feinstein, *Statement on Intel Committee's CIA Detention, Interrogation Report*, Mar. 11, 2014, <http://www.feinstein.senate.gov/public/index.cfm/2014/3/feinstein-statement-on-intelligence-committee-s-cia-detention-interrogation-report>; Senator Ron Wyden, *Statement on Unauthorized CIA Search of Senate Computer Files*, July 31, 2014, <http://www.wyden.senate.gov/newsroom/media/wyden-statement-on-unauthorized-cia-search-of-senate-computer-files>

Executive Order 12333, which prohibits the CIA from conducting domestic searches or surveillance.”¹⁶

The report from the Inspector General will provide more detail about the actual scope of the agency’s activity and will be useful in assessing the effectiveness of oversight. For this reason we request expedited processing.

Request for “News Media” Fee Status

EPIC is a “representative of the news media” for fee waiver purposes.¹⁷ Based on our status as a “news media” requester, we are entitled to receive the requested record with only duplication fees assessed. Further, because disclosure of this information will “contribute significantly to public understanding of the operations or activities of the government,” any duplication fees should be waived.

Conclusion

Thank you for your consideration of this request. As provided in 5 U.S.C. §552(6)(e)(2), I will anticipate your determination on our request for expedited processing within 10 business days. For questions regarding this request I can be contacted at 202-483-1140 ext. 111 or FOIA@epic.org.

Respectfully Submitted,

Ginger P. McCall
Director, EPIC Open Government Project

¹⁶ Senator Dianne Feinstein, *Statement on Intel Committee’s CIA Detention, Interrogation Report*, Mar. 11, 2014, <http://www.feinstein.senate.gov/public/index.cfm/2014/3/feinstein-statement-on-intelligence-committee-s-cia-detention-interrogation-report>

¹⁷ *EPIC v. Department of Defense*, 241 F. Supp. 2d 5 (D.D.C. 2003).