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VIA FACSIMILE and EMAIL

Deborah Waller  
 Government Information Specialist  
 Office of the Inspector General  
 Department of Justice  
 Room 4726  
 950 Pennsylvania Avenue, N.W.  
 Washington, DC 20530-0001  
 Fax: (202) 616-9152  
 Email: oigfoia@usdoj.gov

1718 Connecticut Ave NW  
 Suite 200  
 Washington DC 20009  
 USA  
 +1 202 483 1140 [tel]  
 +1 202 483 1248 [fax]  
 www.epic.org

**RE: Freedom of Information Act Request**

Dear Ms. Waller:

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 Department of Justice’s (“DOJ”) Office of the Inspector General (“OIG”).

EPIC seeks records relating to the Inspector General’s non-public reports. Specifically, EPIC seeks:

- Title Pages, Tables of Contents, and Executive Summaries of each final, non-public Inspector General report created since January 1, 2005 that falls under the falling report categories listed on the Office of the Inspector General’s website:
  - Audits and Reviews by Component<sup>1</sup>
  - External Audits → Office of Justice Programs (OJP) Grant Audits<sup>2</sup>
  - External Audits → Combined DNA Index System (CODIS) Audits<sup>3</sup>

Background

The Inspector General conducts investigations, evaluations, and audits for the Department of Justice. The results of these internal investigations offer an insight into the workings of the DOJ and allow the public to better understand how the Department

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<sup>1</sup> <https://oig.justice.gov/reports/components.htm>.

<sup>2</sup> <https://oig.justice.gov/reports/ojp-ext.htm>.

<sup>3</sup> <https://oig.justice.gov/reports/codis-ext.htm>.

functions and the measures being taken to increase the efficiency and effectiveness of the office.<sup>4</sup>

Ultimately, these Inspector General investigations help ensure the DOJ is being managed in an ethical and responsible manner, as well as, allow the public to be more confident in the operations of a taxpayer-funded entity.

However, not all Inspector General reports are made public.<sup>5</sup> Thus, the public is not fully informed about the management and shortfalls of the DOJ. In order to further the Inspector General's mission of promoting transparency about the DOJ for the public, EPIC seeks the Title Pages, Tables of Contents, and Executive Summary of all unpublished Inspector General reports dating back to January 1, 2005.

#### Request for "News Media" Fee Status and Fee Waiver

EPIC is a "representative of the news media" for fee classification purposes.<sup>6</sup> Based on EPIC's status as a "news media" requester, EPIC is entitled to receive the requested record with only duplication fees assessed.<sup>7</sup>

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.<sup>8</sup> According to the agency's regulations, a fee waiver should be granted because (i) the subject of the request concerns "identifiable operations or activities of the Federal government," (ii) disclosure is "meaningfully informative about government operations or activities," and the information is not already in public domain; (iii) the disclosure "will contribute to the understanding of a reasonably broad audience of persons interested in the subject," and EPIC has the "expertise in the subject area an ability and intention to effectively convey information to the public"- as the agency notes, "It shall be presumed that a representative of the news media will satisfy this consideration"; and, (iv) the disclosure of the Agreement will enhance the public's understanding "to a significant extent."<sup>9</sup>

First, the OIG has recognized that not all reports and appendices of the reports are made public after an investigation or an audit.<sup>10</sup> Second, by definition, the information is not already in the public domain and once the disclosure is made, the public will better

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<sup>4</sup> OFFICE OF THE INSPECTOR GENERAL: ABOUT THE OFFICE, <https://oig.justice.gov/about/> (last visited Oct. 21, 2015).

<sup>5</sup> See, e.g., REPORT TO CONGRESS ON IMPLEMENTATION OF SECTION 1001 OF THE USA PATRIOT ACT s://www.oig.justice.gov/special/0409/index.htm (Last accessed Oct. 21, 2015).

<sup>6</sup> EPIC v. Dep't of Defense, 241 F. Supp. 2d 5 (D.D.C. 2003).

<sup>7</sup> 5 U.S.C. § 552(a)(4)(A)(ii)(II).

<sup>8</sup> § 552(a)(4)(A)(iii).

<sup>9</sup> See 28 C.F.R. § 16.10(K)(2).

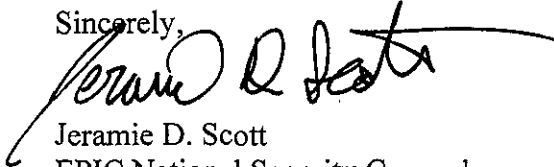
<sup>10</sup> *supra* note 2.

understand the workings of the DOJ in a meaningfully informative way. Because EPIC is a “representative of the news media,” the third factor is satisfied. Finally, the disclosure will enhance the public’s understanding of the DOJ “to a meaningful extent” because EPIC will publish the responsive records on two of the world’s most popular websites for searches on the term “privacy”—[epic.org](http://epic.org) and [privacy.org](http://privacy.org)—as well as part of EPIC’s popular bi-weekly newsletter.

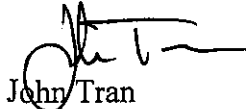
Conclusion

Thank you for your consideration of this request. As provided in 5 U.S.C § 552(a)(6)(E)(ii)(I), I will anticipate your determination on our request within twenty business days. For questions regarding this request, I can be contacted at 202-483-1140x108 or [FOIA@epic.org](mailto:FOIA@epic.org).

Sincerely,



Jeramie D. Scott  
EPIC National Security Counsel



John Tran  
EPIC FOIA Counsel  
Open Government Project Coordinator