



April 4, 2018

Stephen Kelley  
Acting Director, Information Management Division  
Office of the Director of National Intelligence  
Washington, D.C. 20511

Re: Freedom of Information Act Request

Dear Mr. Kelley:

I am making this request under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552. Please provide the Project On Government Oversight (POGO) with the following information:

- 1) The number of individuals who held and who were approved for a security clearance as of October 1, 2016, broken down by personnel type: i.e. “government,” “contractor,” and “other.” For reference, see the information contained in the “Employee Type” column in tables 1 and 2 in the *2015 Annual Report on Security Clearance Determinations*, Office of the Director of National Intelligence, National Counterintelligence and Security Center.<sup>1</sup>
- 2) The names of the agencies listed in tables 3 through 7 of *Fiscal Year 2016 Annual Report on Security Clearance Determinations*, Office of the Director of National Intelligence, National Counterintelligence and Security Center.<sup>2</sup> For reference, see the information contained in the “Agency” column in tables 3 through 8 in the *2015 Annual Report on Security Clearance Determinations*.

I request a waiver of all costs associated with fulfilling this submission pursuant to 5 U.S.C. § 552(a)(4)(A)(iii). Disclosure of the requested information will further the “public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest” of the requester, POGO. POGO will use the requested information to inform the public about an issue of great importance—specifically, the status of federal security clearance determinations and the number and types of personnel who have access to the country’s most sensitive information.

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<sup>1</sup> [https://www.odni.gov/files/documents/Newsroom/Reports%20and%20Pubs/2015-Annual\\_Report\\_on\\_Security\\_Clearance\\_Determinations.pdf](https://www.odni.gov/files/documents/Newsroom/Reports%20and%20Pubs/2015-Annual_Report_on_Security_Clearance_Determinations.pdf)

<sup>2</sup> <https://www.dni.gov/files/documents/Newsroom/FY16-Report-Security-Clearance-Determinations-PubRelease-20171017.pdf>

Founded in 1981, POGO is a nonpartisan independent watchdog that champions good government reforms. POGO's investigations into corruption, misconduct, and conflicts of interest achieve a more effective, accountable, open, and ethical federal government. POGO disseminates information about its activities to thousands of concerned citizens, policymakers, and the media via email, direct mail, and its website,<sup>3</sup> which receives over 107,000 page views monthly. The information provided will be used for the following activities: publication by email and on our website; publication in reports and newsletters issued by POGO or by affiliated nonprofit organizations; efforts to educate Congress, the Executive Branch, and other policymakers in Washington, D.C.; and investigations conducted with the news media. POGO undertakes all of these actions to ensure the public is well-informed about the actions and operations of the federal government.

Set forth below is a detailed account of POGO's planned use of the requested records that fully responds to the fee waiver criteria governed by 5 U.S.C. § 552(a)(4)(A)(iii).

*(A) The subject of the request, i.e., whether the subject of the requested records concerns the operations or activities of the government.*

As a nonprofit, nonpartisan organization committed to good governance, it is our mission to help the general public better understand how the taxpayers' money is spent and whether government agencies—including agencies of the intelligence community (IC)—spend their money in accordance with applicable legal and ethical standards. Every year, the federal government spends billions of dollars hiring contractors. The public should have a clear picture of how many of these contractors hold clearances to handle the country's most sensitive documents and information, as well as the most recent security clearance determination processing metrics of the IC agencies.

*(B) The informative value of the information to be disclosed, i.e., whether the disclosure is likely to contribute to an understanding of government operations or activities.*

POGO is uniquely positioned to provide the public with a better understanding of how government agencies manage government records and protect national security secrets. Issues relating to the federal information classification and security clearance processes, including over-classification and the backlog of clearance background checks, have garnered considerable media coverage and concern in Congress in recent years.

Having more detailed information about the types of federal employees holding clearances and the agencies' clearance-processing metrics is the only way to determine whether the government is functioning effectively and spending taxpayer dollars wisely. POGO intends to analyze the requested information and inform the public about notable trends, much as we did in 2016 when the National Counterintelligence and Security Center released the *2015 Annual Report on Security Clearance Determinations*.<sup>4</sup>

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<sup>3</sup> <http://www.pogo.org>

<sup>4</sup> See Project On Government Oversight, "Security Clearances Drop but Intelligence Problems Remain," July 14, 2016. <http://www.pogo.org/blog/2016/07/security-clearances-drop-but-intelligence-problems-remain.html>

The legislative history of the fee waiver standard “clearly indicates” that Congress intended to create a public interest/benefit test for granting FOIA fee waivers that is to be “liberally construed,” and is “consistently associated with requests from ... *non-profit interest groups* who it was intended to benefit.” (Emphasis added.) *Ettlinger v. FBI*, 596 F. Supp. 867, 872 (D. Mass. 1984); *Nat’l Treasury Employees Union v. Griffin*, 811 F.2d 644 (D.C. Cir. 1987); *Lybarger v. Cardwell*, 577 F.2d 764 (1<sup>st</sup> Cir. 1978).

*(C) The contribution to an understanding of the subject by the general public is likely to result from disclosure, i.e., whether disclosure of the requested information will contribute to public understanding, including whether the requester has expertise in the subject area as well as the intention and ability to disseminate the information to the public.*

Founded in 1981, POGO is an independent nonprofit that investigates and exposes corruption and other misconduct in order to achieve a more honest, open, and accountable federal government. As such, POGO closely observes the activities of federal agencies, Congress, the federal courts, and government contractors. POGO made its mark by examining Pentagon waste and fraud, spotlighting overspending on toilet seats, coffee makers, and spare parts. Over the years, POGO has built up considerable expertise—and international prominence—in the areas of government spending, contracting, transparency, and accountability.

*(D) The significance of the contribution to public understanding, i.e., whether the disclosure is likely to contribute significantly to public understanding of government operations or activities.*

The requested information will expand the public’s knowledge of the current state of the federal security clearance process and the IC’s efforts to better manage this process and control the number of individuals who have access to classified information. All of POGO’s investigations are available for free to the public on our website, our primary vehicle for disseminating information to the public. The site receives 87,000 unique visitors monthly. Our blog<sup>5</sup> has developed a devoted readership, averaging roughly 14,000 visitors monthly. Our collaborations with other organizations and the news media amplify our reach and increase public understanding of government activities.

*(E) Whether disclosure of the information is not primarily in the commercial interest of the POGO.*

POGO holds no commercial interest in the requested information. As discussed above, the information will be used strictly for the public interest. We do not charge for access to information posted on our website, or for reports, newsletters, and other printed materials.

If any of these requests are denied, in full or in part, please cite the exemption(s) pursuant to 5 U.S.C. § 552(b) that justify each denial. If an exemption applies, however, please consider exercising the agency’s discretionary release powers to disclose the information. Additionally, please release all reasonably segregable portions of the information that do not meet an exemption.

We look forward to your response within 20 days of the receipt of this request, unless, in the case of “unusual circumstances,” the time limitation is “extended by written notice.” We are aware

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<sup>5</sup> <http://www.pogo.org/blog/>

that we have a right to appeal this request if it is wholly or partially denied or if the agency fails to respond within 20 days. We are aware that, if successful, a federal district court may assess “reasonable attorney fees and other litigation costs” per 5 U.S.C. § 552(a)(4)(E).

Please contact me if this request requires further clarification. I can be reached at 202-347-1122, or via e-mail at [ngordon@pogo.org](mailto:ngordon@pogo.org). Thank you for your prompt attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Neil Gordon', with a long horizontal flourish extending to the right.

Neil Gordon  
Investigator