



HARRIS CORPORATION

October 20, 2014

Government Relations
600 Maryland Avenue, S.W.
Suite 850E
Washington, D.C. 20024
phone 1-202-729-3700
fax 1-202-729- 3735

www.harris.com

Via Electronic Filing

Mr. Julius P. Knapp
Chief
Office of Engineering and Technology
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Re: Request for Confidentiality of Harris Corporation for FCC ID Nos. NK73092523, NK73100176, NK73166210

Dear Mr. Knapp:

Harris Corporation (“Harris”) is responding to your letter request dated October 8 (“Request”). In the Request, you asked that Harris “justify the continued confidentiality of all or portions of these documents.” Harris has provided additional justification below underscoring the importance of ensuring the documents in the referenced applications remain confidential in accordance with 45 C.F.R. §0.457(g) and FOIA exemption 7(e) and 7(f), and 45 C.F.R. § 0.457(c)(5) and (d) and FOIA Exemption 4. As you are aware, public disclosure of certain materials included in the above referenced equipment authorization application could reasonably put public safety officials at risk, jeopardize the integrity and value of investigative techniques and procedures, reveal Harris trade secrets due to the nature of the equipment, and harm Harris’ competitive interests.

A. Confidentiality Compliance with 45 C.F.R. § 0.457(g) and FOIA Exemption 7(e) and (f)

This provision allows the withholding of information that falls under 5 U.S.C. 552(b)(7) for records compiled for law enforcement purposes, to the extent that production of such records:

- (5) Would disclose investigative techniques or procedures or would disclose investigative guidelines if such disclosure could reasonably be expected to risk circumvention of the law; or
- (6) Could reasonably be expected to endanger the life or physical safety of any individual.

(1) FOIA Exemption 7E (5 U.S.C. 552 (b)(7)(E))

Exemption 7E allows the withholding of law enforcement information that “would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law.” 5 U.S.C. § 552(b)(7)(E) (2006 & Supp. IV 2010). The release of the owner’s manuals for above referenced applications, i.e. the training manual for FBI and state/local law enforcement for the equipment, would benefit criminals and terrorist who would violate the law and avoid detection by reducing or nullifying the effectiveness of these law enforcement techniques and procedures. If the owner’s manuals were made public, criminals and terrorist would have access to information that would allow them to build countermeasures to defeat the law enforcement efforts. In

our March 21, 2011 application, Harris noted that “[t]he nature of the product[s] make it necessary for the descriptions provided in the equipment authorization application and supporting document/exhibits – including technical information regarding the performance parameters, design and operation of the technology, and information regarding the entities proposing to use the product - be withheld from public disclosure” under 45 C.F.R 0.457(g).

This is at the core of Exemption 7E. See *Hale v. DOJ*, 973 F.2d 894 (10th Cir. 1992) at 902-03 (concluding that disclosure of use of security devices and their modus operandi could lessen their effectiveness); *McGehee v. DOJ*, 800 F. Supp. 2d 220, 236-37 (D.D.C. 2011) (finding that Exemption 7(E) does not require that techniques be unknown to public where release of non-public details of such techniques would allow circumvention of techniques); *Cal-Trim, Inc. v. IRS*, 484 F. Supp. 2d 1021, 1027-28 (D. Ariz. 2007) (protecting records related to agency investigation because release could allow individuals under investigation "to craft explanations or defenses based on the [IRS] agent's analysis or enable them the opportunity to disguise or conceal the transactions that are under investigation").

To qualify under Exemption 7E, the techniques and procedures must not be well known to the public. This is true of the owner’s manuals despite the repeated attempts to obtain the information from both Federal and state/local law enforcement agencies in the past. Interestingly, the same type information has been withheld from public release in criminal cases. See *U.S. v. Daniel Rigmaiden*, 844 F. Supp. 2d 982 (after an in camera review of the evidence related to the aircard and geolocation techniques/procedures, the court denied the defendant’s request under the Fourth Amendment for information related to the technology and methods used to locate his aircard and geolocation device).

Moreover, the courts have recognized the categorical protection of the information if the techniques and procedures are not well known to the public. See *ACLU of Michigan v. FBI* 2012 WL 45133626; *Citizens for Responsibility & Ethics in Washington v. DOJ*, 870 F. Supp. 2d 70, 85 (D.D.C. 2012) (declaring that "longstanding precedent" supports categorical protection for law enforcement techniques and procedures).

The courts have interpreted Exemption 7E to encompass the withholding of a broad range of techniques and procedures. See *Soghoian v. DOJ*, 885 F. Supp. 2d at 75 (protecting electronic surveillance techniques and guidance provided to investigators on use of such techniques because release could allow criminals to circumvent law enforcement efforts); *Frankenberry v. FBI*, No. 08-1565, 2012 U.S. Dist. LEXIS 39027, at 71 (accepting FBI's explanation that disclosure of precise placement of recording devices used by FBI to monitor conversations would allow circumvention of technique); *Skinner II v. FBI*, 806 F. Supp. 2d at 115-16 (protecting "subject tracking" information).

(2) FOIA Exemption 7F.

In addition, Exemption 7F protects law enforcement information that could reasonably be expected to endanger the life or physical safety of any individual. 5 U.S.C. § 552(b)(7)(F) (2006 & Supp. IV 2010). The release of the Harris owner’s manuals may allow criminals/terrorists to develop counter measures that would identify when law enforcement officials are using the equipment, and endanger the law enforcement officials’ safety/lives in performing their duties. See *Pub. Emps. For Env'tl Resp. v. U.S. Sect. Int'l Boundary & Water Comm'n*, 839 F. Supp. 2d 304 (D.D.C. 2012) (approving withholding of inundation maps because of concern that terrorists could use the information in maps to cause flooding and destruction in populated areas); In Exemption 7F cases, the courts generally defer to the agency’s assessment of harm with showing of some nexus between the disclosure and harm.

Because Harris and law enforcement agencies recognized the need for withholding the information from public disclosure to protect law enforcement techniques/procedures and to protect law enforcement officials, Harris requested the FCC to place two restrictions on the equipment authorization for Harris equipment – 1) limit the sale to federal/state/local public safety and law enforcement officials, and 2) require state/local law enforcement agencies to coordinate with the FBI for the acquisition and use of the products. These additional steps are designed 1) to protect the lives and physical safety of law enforcement officials, and 2) to protect the law enforcement techniques and procedures.

For these reasons, the owner’s manuals should remain confidential under 45 CFR 0.457(g) as information protected under Exemptions 7E and 7F of the FOIA.

B. Confidentiality Compliance with 45 C.F.R. § 0.457(c)(5) and (d) and FOIA Exemption 4.

45 CFR 0.457(c)(5) refers to the prohibition on the release certain confidential information under 18 U.S.C. 1905. 45 CFR 0.457(d), Trade secrets and commercial or financial information obtained from any person and privileged or confidential—categories of materials not routinely available for public inspection, 5 U.S.C. 552(b)(4) and 18 U.S.C. 1905, applies to the applications referenced above.

(1) FOIA Exemption 4 (5 U.S.C. 552 (b)(4)).

The owner’s manuals are trade secrets. They contain Harris proprietary information, including certain trade secrets and manufacturing processes that would compromise our competitive advantage if such information were made public. As noted in our original request for confidentiality, the disclosure of the information would harm our ability to compete in the market as our competitors could reverse-engineer the products and would offer the competitors insight into Harris products/trade secrets/manufacturing processes. Harris has taken reasonable steps to protect the proprietary nature of these documents: 1) the owner’s manuals are clearly marked as Harris proprietary information; 2) the documents are only provided to certain federal/state/local public safety and law enforcement agencies, and 3) within these agencies, the information is provided to a limited number of users who are subject to a nondisclosure agreement and trained to use the equipment.

For the above reasons, the confidentiality of the applications including, but not limited to the owner’s manuals, should “not be routinely available for inspection” per §0.461.

C. Conclusion

In light of the above compelling reasons to withhold the information - to protect the safety and lives of law enforcement officials; to protect proven law enforcement techniques and procedures that are not generally disclosed; and to protect trade secrets/proprietary commercial information - the information should be treated as confidential and withheld under the FCC rules. In addition, the FOIA requestor in this case has not made any showing, much less a “persuasive showing”, as to the reason for inspection of this information.

If Harris’ request for confidentiality is found to be incomplete, Harris respectfully requests the Commission notify Harris of any deficiencies and provide Harris reasonable time to provide additional information. Should Harris’ request for confidentiality be denied, Harris respectfully requests that the Commission return all materials to which confidentiality cannot be provided.

Respectfully submitted,

_____/s/_____

HARRIS CORPORATION

600 Maryland Avenue, S.W.

Suite 850E

Washington, D.C. 20024

(202) 729-3700

Tania W. Hanna

Vice President, Government Relations

Harris Corporation

**FREEDOM OF INFORMATION
ACT REQUEST - FOIA**

To: Julius P. Knapp
Chief Officer of Engineering and Technology
Federal Communications Commission
445 12th Street SW
Washington, D.C. 20554

October 25, 2014 VIA E-MAIL

Re: Response to Harris Corporation letter pertaining to FOIA 2014-669

To: Mr. Knapp,

On Thursday, October 23, 2014, the Freedom of Information Act (“FOIA”) intake office at the Federal Communications Commission (“FCC”) reached out to inform me that the Harris Corporation of Melbourne, Florida (“Harris”) had transmitted a letter to your office regarding a FOIA request made by yours truly on September 24, 2014 (FOIA 2014-669, “the FOIA request”). This letter serves as a response to the correspondence submitted to your office by Harris. It is my intent to make supporting arguments as to why the material sought in the FOIA request should be released in whole pursuant to federal law.

Background: The FOIA Request

On Septmeber 24, 2014, I (“the requester”) filed a FOIA request with the FCC seeking "a copy of any and all user manuals for the following items manufactured by (Harris): Device bearing FCC ID NK73092523...device bearing FCC ID NK73100179...device bearing FCC ID NK73166210..." Collectively, these shall be referred to as “the equipment” or “the devices.”

On October 10, 2014, David Duarte with the FCC contacted me by electronic mail (“e-mail”) to inform me that the agency had received and was processing my request. Mr. Duarte informed me that Harris had been contacted regarding my request, and that the agency expected to hear back from them by October 22, 2014. Mr. Duarte said that after Harris had returned their inquiry regarding the request, I would be given an opportunity to respond. Mr. Duarte included two letters attached to the e-mail; both were reviewed by me and appeared to be whole.

On October 20, 2014, Harris transmitted a letter to the FCC in which they expressed concern about the disclosure of material pursuant to my FOIA request. Harris noted in its letter that the material sought under this request had been offered to the FCC under condition of

**FREEDOM OF INFORMATION
ACT REQUEST - FOIA**

confidentiality because, as Harris alleges, public disclosure of the documents could “reasonably put public safety officials at risk, jeopardize the integrity and value of investigative techniques and procedures, reveal Harris trade secrets due to the nature of the equipment, and harm Harris’ competitive interests.”

Harris attempted to justify its position by citing several federal statutes, including statutes that deal with police procedures and exemptions under the FOIA law. It is my intent to prove why Harris’ argument to justify continued confidentiality of the documents sought by this requester are moot.

The documents sought do not describe a “law enforcement technique or procedure”

The documents sought are users manuals for hardware. A users manual is reasonably assumed to mean a document or dossier compiled by a company or organization offering a product or service in which details of the outward design of equipment, basic intended operations, safety information and troubleshooting guidelines are offered. Users manuals may also contain other banal information, such as limited warranties, trademark and copyright information.

Harris assumes the requester is seeking “the training manual for FBI and state/local law enforcement for the equipment.” This is untrue; the requester is merely seeking the users manual for each listed piece of equipment. The requester never asked for “training manuals.” In fact, the requester was unaware Harris produced any training material for law enforcement until Harris volunteered said information in its letter to your agency.

In any case, Harris asserts that the release of the documents “would benefit criminals and terrorists who would violate the law and avoid detection by reducing or nullifying the effectiveness of these law enforcement techniques and procedures.” Here, Harris is stating a definitive — that criminals *would* benefit, and that they *would* violate the law — but Harris fails to provide any evidence as to how the company is absolutely certain that either of those holds true. Harris also fails to cite any cases in which the release of information to the public allowed criminals to thwart law enforcement apprehension. On this argument, Harris’ points are without merit.

Additionally, Harris contends that “if the owner’s manuals were made public, criminals and terrorists would have access to information that would allow them to build countermeasures to defeat law enforcement efforts.” Again, Harris is stating a definitive — that criminals *would* have access to information that *would* allow them to defeat law enforcement efforts. And again, Harris fails to provide any evidence as to how the company is absolutely certain that this assertion is true and anything but mere speculation. And again, Harris fails to cite any

FREEDOM OF INFORMATION
ACT REQUEST - FOIA

cases in which the public release of documents provided criminals any ability to which Harris claims. On this point, Harris' claim is without merit.

Harris contends that the documents sought are protected under FOIA Exemption 7E, which states that material sought may be exempt from the FOIA law if fulfillment "would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law." To that, Harris cites an appellate case, *Hale v. DOJ* (10th Cir. 1992), which Harris claims exempts "use of security devices and their modus operandi." A closer inspection of the case reveals plaintiff Hale sought information on several human informants provided confidentiality by the Federal Bureau of Investigation (F.B.I.). Here, requester is not seeking information on a human being — rather, requester is seeking information on hardware. The court case cited does not make a claim as to whether or not "hardware" constitutes a "person" or "informant," thus the cited court case is not germane to Harris' argument that the documents requested are exempt under 7E.

Harris further contends that the documents sought are protected under FOIA Exemption 7E because 7E "does not require that techniques be unknown to (the) public where release of non-public details of such techniques would allow circumvention of techniques." Here, Harris cites a district court case, *McGehee v. DOJ*, which Harris attempts to use to back up its assertion. Again, a closer inspection reveals that Harris has grossly misinterpreted this case — the key word in Harris' argument is "would," in that "release of non-public details of such techniques *would* allow circumvention of techniques." First, the plaintiffs in *McGehee* sought under FOIA records produced and held by the F.B.I. pursuant to a criminal investigation; they did not seek records on hardware equipment, nor did they seek records held by a government agency that were produced by a third-party. Second, the court never used the word "would" in its finding on 7E. Last, the court found on the basis of inter-agency activity — chiefly, the F.B.I.'s use of "Stop Notices" in conjunction with other federal agencies with respect to suspected individuals and/or persons of interest — this is, arguably, a law enforcement technique. Here, Harris' argument is moot because the requester is seeking documents related to a device, not a technique.

Harris also contends that the documents sought are protected under FOIA Exemption 7E because the exemption provides protection of "records related to agency investigations..." Harris cites the district case *Cal-Trim, Inc. v. IRS* in an attempt to back its assertion. A close examination of this court case finds it is inapplicable to this request — the plaintiff in *Cal-Trim* sought documents from the IRS that were being used, at the time, by the agency in an active criminal investigation. The court found that since the documents were being used in direct connection to a single and active criminal investigation, they were "records related to agency investigations." Here, the requester is seeking general documents produced by Harris related to hardware before any criminal investigation took place, and Harris has failed to provide any

FREEDOM OF INFORMATION
ACT REQUEST - FOIA

evidence that the documents are linked to any single and current criminal investigation, nor has Harris provided any affidavits from sworn law enforcement officials that the documents sought are linked to any single and current criminal investigation. For this reason, Harris' argument is moot.

Harris contends that “to qualify under Exemption 7E, the techniques and procedures must not be well known (sic) to the public.” Harris says “this is true of the owner’s manuals despite the repeated attempt to obtain the information from both Federal and state/local law enforcement agencies in the past.” Here, Harris contradicts itself — first, Harris claims that the techniques do not necessarily need to be “unknown to (the) public” under *McGehee*, but now Harris asserts that to qualify for exemption under 7E, the techniques indeed must not be known to the public. Harris cannot have it both ways.

In any case, Harris' claim that the “techniques and procedures” related to information on the devices sought are not well known is untrue. Recent court cases have shed light on exactly how law enforcement officials use the devices for which records are sought. In *Florida v. Thomas* (2014, 08-CF-03350), a judge granted a motion filed by the American Civil Liberties Union (A.C.L.U.) for the release of a transcript containing detailed courtroom testimony in the captioned case related to law enforcement’s acquisition and use of a clandestine cellphone surveillance device. The A.C.L.U. contends that this surveillance device is a “StingRay,” a piece of hardware that is manufactured by Harris. Your requester referenced the “StingRay” by its FCC ID in the FOIA request. The released transcript offered an intimate look at how law enforcement use the StingRay device. In this case, local and federal law enforcement sought to keep the transcript from public release — their efforts failed. Thus, a further contention made by Harris — that “the same time of information has been withheld from public release in criminal cases” — is not wholly accurate. Indeed, it may have been withheld in *some* cases, but in *other* cases, judges have found that the public *is* entitled to learn about the techniques in which law enforcement officials use the devices in question.

Harris attempts to back its argument further by citing *U.S. v Rigmaiden*, a federal court case that, interestingly enough, centered around the purported use of a device manufactured by Harris. In this case, a judge ruled that a defendant had no Fourth Amendment right to learn about “the technology and methods used to locate” certain computer peripherals. Here, Harris attempts to support its argument with this case by maintaining that the information “has been withheld from public release in criminal cases.” Again, while it is true that the information may have been withheld in *some* cases, it is misleading to suggest that it has been withheld in all cases — see *Florida v. Thomas*.

The remainder of Harris' arguments in support of protection under Exemption 7E deal mainly with law enforcement techniques and procedures. As stated earlier, the documents sought outline *specific hardware*, not “law enforcement techniques” and not “law enforcement

**FREEDOM OF INFORMATION
ACT REQUEST - FOIA**

procedures.” Harris has failed to support any suggestion that equipment is akin to a “technique” or a “procedure.” To that, it is not. Thus, on all these points, Harris’ arguments are moot.

The documents sought could not “reasonably be expected to endanger the life or physical safety of any individual”

Harris asserts that the documents sought are exempt from public disclosure under FOIA Exemption 7F, in that public release of the documents sought “could reasonably be expected to endanger the life or physical safety of any individual.” To that, Harris asserts that “the release of the...manuals may allow criminals/terrorists to develop counter measure that would identify when law enforcement officials are using the equipment and endanger the law enforcement officials’ safety/lives in performing their duties.”

Harris attempts to support its assertion by citing a federal case, *Public Employees for Environmental Responsibility (PEER) v. United States Section International Boundary and Water Commission (USIBWC)*. In this case, a judge found that the information sought by PEER was exempt under 7F because USIBWC had met the burden of proof that the life or physical safety of an individual could be reasonably threatened if USIBWC were forced to release environmental maps sought by PEER. To that, a judge found the defendant had met the burden of proof because a law enforcement agency had "informed the USIBWC of a specific threat that had been made against" a dam in Texas. In addition, law enforcement had learned "that criminal organizations in Mexico allegedly had developed plans to breach the Amistad and Falcon Dams by using strategically-located explosive devices with the intention of causing destructive floods." Here, USIBWC showed that there were several significant threats made against aqua-structural facilities, including dams, in the United States by suspected and/or known criminals, both domestic and international.

Harris uses this case to assert that the documents sought are to be protected because both the company and law enforcement have themselves determined “the need for withholding the information from public disclosure to protect law enforcement techniques/procedures and to protect law enforcement officials.” Harris operates under the false assumption that the case in question offers a blanket protection over hypothetical concerns to life and limb; this is not the case — instead, the judge ruled on protecting certain documents *only after* the defendant in the case revealed direct and specific threats, the means of which could be easier achieved through the release of the sought records. Here, Harris has failed to ever note any specific threat that would lead it and/or law enforcement officials to presume that disclosure of the documents requested would threaten anyone’s safety. Harris’ misinterpretation of *Peer v. USIBWM* renders its argument moot.

**FREEDOM OF INFORMATION
ACT REQUEST - FOIA**

The documents sought are not “trade secrets” as designated under the law

Harris asserts that the documents sought are “trade secrets” protected under various statutes, including 45 C.F.R. 0.457(c)(5), 45 C.F.R. 0.457(d), 18 U.S.C. 1905 and FOIA Exemption 4 (5 U.S.C. 552(b)(4)). Here, Harris argues that the records sought contain “proprietary information, including trade secrets and manufacturing processes that would compromise our competitive advantage if such information were made public.”

The Uniform Trade Secrets Act (“UTSA”) defines a “trade secret” as “information, including a formula, pattern, compilation, program, device, method, technique, or process, that derives independent economic value, actual or potential, from not being generally known to or readily ascertainable through appropriate means by other persons who might obtain economic value from its disclosure or use; and is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.” More than 40 states and the District of Columbia have adopted the UTSA, including Florida, where Harris is based.

In order to qualify as a “trade secret,” Harris must prove the records sought:

- contain information related to the manufacturing of the device (“a formula, pattern, compilation, program, device, method, or process”), AND
- that the information sought provides Harris with independent economic value because it is not easily accessible to the public, AND
- that the information sought is the subject of reasonable efforts to maintain secrecy.

It is hard to argue that Harris has not fulfilled the third point — with respect to this requester and others, Harris has made many reasonable efforts to maintain the secrecy of the documents requested. Harris has, among other things, required the signing of a non-disclosure agreement between itself and local and state law enforcement agencies before acquiring certain devices. Harris also requested the F.C.C. treat certain documents as proprietary and confidential — something that the agency agreed to, and is now reconsidering in light of this (and possibly other) requests.

However, in order to qualify as a “trade secret,” Harris must satisfy ALL, not part, of the definition as set in the UTSA.

Harris asserts that the “owner’s manuals” are “trade secrets” because they contain “manufacturing processes that would compromise (their) competitive advantage.” This seems unlikely — an “owner’s manual” typically contains information on the intended use of a device as well as warranty and troubleshooting information.

**FREEDOM OF INFORMATION
ACT REQUEST - FOIA**

For example, the “owner’s manual” for a cellular telephone would reasonably be expected to contain information on the intended operation of the phone — including how to power it on, how to place a call and how to power it off — as well as troubleshooting information (how to reset a phone in the event of a malfunction) and warranty information (what is covered by the manufacturer in the event of a serious malfunction, damage or defect). An “owner’s manual” typically does not contain the full blueprint of a device — from concept to manufacturing and eventual sale.

It is highly unlikely that Harris knowingly and purposefully publishes the entire manufacturing process of the devices in the owner’s manuals sought — if they did, Harris would be putting itself at a severe economic disadvantage. In any case, this request does not seek information related to the manufacturing process of any Harris product — the F.C.C., in its discretion and pursuant to applicable law, is free to examine and withhold any portion of any document that deals exclusively with the manufacturing of any Harris device.

However, withholding a portion of any record sought does not preclude the F.C.C. from withholding ALL records sought — and, in fact, the agency cannot, by law, determine that the withholding of a part triggers an automatic denial in full. For this reason, Harris’ argument that the documents should be withheld in totality is moot.

The requester does not need to state a reason for the inspection of records under the FOIA law

Harris asserts that the requester “has not made any showing, much less a ‘persuasive showing,’ as to the reason for inspection of this information.” Because of this, Harris is requesting the agency withhold the records sought.

The FOIA law does not require a person or persons to make a “persuasive showing” for the inspection of records held by a government agency. The FOIA law only requires a person or persons make a written request to inspect records, describe the records in as much detail as possible, and comply with agency guidelines. In this case, the requester has fulfilled these obligations.

Even if the FOIA law did require an individual to make a “persuasive showing” for the inspection of records (which, again, it does not), the requester would have satisfied this non-existent obligation. In the request filed on September 23rd with your agency, the requester plainly stated that the records “intends to distribute the information as a representative of the news media in a story or series of stories that serve(s) the public interest and understanding.” This goes to the very heart of the FOIA — that the inspection of public records be allowed so that an informed citizenry is “in the know” about their government and the people, agencies and corporations with whom the government deals.

**FREEDOM OF INFORMATION
ACT REQUEST - FOIA**

For these reasons, Harris' argument that the requested documents should be withheld by the agency because the requester failed to make a "persuasive" case for the inspection of public records is moot.

The records sought should not be returned to Harris until any and all inspection requests related to the records sought have been fulfilled to the satisfaction of the law

Harris has respectfully requested that the agency "return all materials to which confidentiality cannot be provided" should the agency determine that confidentiality cannot be granted in whole or in part with regard to this request for records.

There is no loophole in the FOIA in which agencies are permitted to retroactively deny requests by returning records to third parties. Even if the agency decides to fulfill Harris' request for the return of certain records for which confidentiality can no longer be promised, the agency must fulfill its obligation in permitting this requester — and all others who have filed similar requests — the opportunity to inspect the records sought *before* it returns them to Harris. To do otherwise would go against the very spirit of the FOIA.

Conclusion

Harris has failed to demonstrate any reason for the agency to withhold in totality the records sought by this requester. Harris has failed to demonstrate, among other things, that the records sought are preserved in confidentiality by FOIA Exemptions 4 and 7, laws exempting the release of "trade secrets" and laws exempting the release of law enforcement investigatory tactics.

For this reason, the agency must immediately fulfill the production of records made pursuant to the FOIA act by this requester on September 23, 2014.

Regards,

/s/

Matthew Keys
Independent Journalist
The Desk & The Blot Magazine