



Written by [Steven J. DuBord](#) on December 18, 2009

Homeland Security's Improper Intelligence

The Electronic Frontier Foundation (EFF) has found that during the last several years the Department of Homeland Security (DHS) has improperly collected intelligence on American citizens and lawful U.S. residents on multiple occasions.

EFF describes itself as a “donor-funded nonprofit” that was founded in 1990. According to their [website](#), “EFF fights for freedom primarily in the courts, bringing and defending lawsuits even when that means taking on the US government or large corporations.” It was just such a lawsuit, filed under the Freedom of Information Act, which allowed the EFF to obtain a number of intelligence-oversight documents on December 16.



The documents released so far total 162 pages, and EFF said, “The reports, made to a presidential advisory committee called the Intelligence Oversight Board, detail intelligence activities that the agencies “have reason to believe may be unlawful.” EFF has posted the [documents](#) on its website.

One document is a memorandum disclosing that a Defense Intelligence Agency employee stated that in May 2002 the Joint Forces Intelligence Command (JFIC) responded to a congressional inquiry by providing false information about the JFIC’s operations regarding al-Qaeda and 9/11. Very few details were included.

In October 2007, DHS distributed a report entitled *Nation of Islam: Uncertain Leadership Succession Poses Risks* to hundreds of government officials. Homeland Security guidelines had called for the files to be destroyed because the DHS investigation of that group had gone on for over 180 days without finding any indications of potential terrorism.

In March 2008, the department compiled a “terrorism watch list” report about a Muslim conference in Georgia where some Americans were scheduled as speakers. DHS gathered the intelligence even though it “did not have any evidence the conference or the speakers promoted radical extremism or terrorist activity,” and even though the speakers’ right to free speech is constitutionally protected.

And, in February 2009, a DHS official produced a “threat assessment” for Wisconsin police about a demonstration involving local pro-abortion and pro-life groups. The assessment was criticized internally because the two groups “posed no threat to homeland security.” DHS stated that it eventually destroyed all copies of the assessment and put the official who produced it through remedial training.

EFF noted on their website: “We’ll continue to sift through these records for more important information, and hope reporters and others do the same. EFF filed this lawsuit because Americans deserve to know about incidents of intelligence misconduct — how often they happen, and how effective oversight is for controversial programs. Now that we have some of the records we are seeking, it’s time



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to bring that misconduct to light.”

EFF also stated that “a federal judge indicated during a hearing yesterday [December 15] that she intends to order other intelligence agencies to produce similar documents to EFF by February 2, 2010. We expect those disclosures to include reports from the CIA, Department of Defense and the Defense Intelligence Agency.”

As always, the question of who will watch the watchers is pertinent. EFF has done all Americans a service by bringing this wrongful intelligence gathering to light. When further documents are handed over, it will be interesting to see what the EFF finds out about any other potentially improper domestic intelligence operations.



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