

December 12, 2024

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Oregon Titan Fusion Center
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RE: PUBLIC RECORDS REQUEST – ACLU of Oregon and Don’t Shoot PDX

Dear Records Custodian,

Pursuant to ORS 192.311 *et seq.* the American Civil Liberties Union of Oregon (ACLU of Oregon) and Don’t Shoot PDX jointly seeks records from the Oregon Department of Justice pertaining to the use of the Oregon TITAN fusion center to investigate, collect, and disseminate information on people engaged in protest and communities of color, and the adequacy of the privacy, civil rights, and civil liberties safeguards that apply to them. We respectfully request that this communication be directed to the appropriate Criminal Justice Division personnel to facilitate the fulfillment of our request.

This request seeks information to educate the public about the extent to which the Oregon TITAN fusion center:

1. monitors and collects information on people engaged in protest activity and/or associate protest with “terrorism,” and
2. whether their privacy, civil rights, and civil liberties policies are adequate to guard against abuses and discrimination.

Fusion centers nationwide have a long track record of surveilling and disseminating information on First Amendment-protected activity without a nexus to criminal conduct. Even with the little information the public has on Oregon’s TITAN fusion center, the ACLU of Oregon is aware that the center has a similar history of unlawful surveillance. For example, in 2021, the Oregon Department of Justice was sued for the TITAN fusion center targeting and issuing baseless reports on environmental advocates peacefully exercising their constitutional rights to protest the Jordan Cove Pipeline, a fossil fuel infrastructure project center.¹ The information presented in

¹ <https://theintercept.com/2020/02/12/jordan-cove-oregon-pembina-pipeline/>

this lawsuit states that the TITAN fusion center has been monitoring and violating the civil liberties of pipeline protesters since at least 2015.²

In 2015, it also was revealed that an analyst within the TITAN fusion center was monitoring³ social media posts with the hashtags #BlackLivesMatter and #BLM.⁴ Despite the ongoing risks posed to privacy, civil rights, and civil liberties, fusion centers remain secretive and subject to scant oversight and accountability. The only meaningful effort to conduct oversight of fusion centers nationally was conducted by the U.S. Senate Permanent Subcommittee on Investigations over a decade ago. In Oregon, the TITAN fusion center is not legislatively mandated and therefore operates without appropriate oversight or authorization.

In order to promote greater transparency for the public surrounding the nature of federal and state collaboration in monitoring people engaged in dissent and its impact on privacy and civil rights and liberties, the ACLU of Oregon and Don't Shoot Portland request copies of the following public records:

1. All final policies, guidance, procedures, directives, advisories, memoranda, agreements, training materials, and/or legal opinions created from January 20, 2017 to the present, pertaining to:
 - a. The use of Oregon TITAN fusion center to collect information about, monitor, surveil, observe, question, interrogate, and/or investigate individuals or organizations engaged in protest;
 - b. The activities and/or predicate criteria that trigger Oregon TITAN fusion center involvement, including the legal justification and/or factual showing required;
 - c. Intra-agency correspondence and correspondence among federal, state, and local law enforcement agencies pertaining to monitoring, surveilling, observing, questioning, interrogating, and/or otherwise investigating individuals or groups engaged in protest through or by Oregon TITAN fusion center;
 - d. The collection, storage, use, and/or dissemination of data (including photographs, videos, and electronic surveillance records) obtained during and/or in connection with monitoring of individuals or groups engaged in protest through or by Oregon TITAN fusion center; and
 - e. Oregon TITAN fusion center's protection of privacy, civil rights, and civil liberties.

²https://www.rv-times.com/localstate/as-one-southern-oregon-surveillance-lawsuit-starts-doj-seeks-to-dismiss-another/article_d87463b8-63f1-11ef-9ac4-d352b0e073b4.html

³https://www.bendbulletin.com/localstate/aclu-slams-oregon-doj-for-ignoring-free-speech-protections/article_aceecd-a7-506e-5c94-a601-e22315050903.html

⁴ <https://www.aclu-or.org/en/black-lives-matter-supporters-oregon-targeted-state-surveillance>

2. Records created from January 20, 2017 to the present, indicating:
 - a. The number of individuals whose activities have been investigated through or by JTTFs and/or fusion centers in connection with protests; and
 - b. The number and names of groups whose activities have been investigated through or by JTTFs and/or fusion centers in connection with protests; and
 - c. Investigation of Don't Shoot PDX; and
 - d. Investigation of the ACLU of Oregon; and
 - e. Investigation of Teresa Raiford; and
 - f. Investigation of Sean Kealiher.

3. Records created from January 20, 2017, to the present concerning the definition of the following terms as used and applied by JTTFs and/or fusion centers:
 - a. "Racially or Ethnically Motivated Violent Extremism";
 - b. "Black identity extremist";
 - c. "Black Identity Extremism movement";
 - d. "Anti-Government or Anti-Authority Violent Extremism";
 - e. "Animal Rights or Environmental Violent Extremism";
 - f. "All Other Domestic Terrorism Threats";
 - g. "Abortion-Related Violent Extremism";
 - h. "Domestic violent extremism";
 - i. "Domestic terrorism";
 - j. "Anarchist violent extremism";
 - k. "Radical agitator";
 - l. "Criminal organizers and instigator";
 - m. "Violent instigator";
 - n. "Antifa"; and
 - o. "Far-left extremist."

4. Records from January 20, 2017 containing the terms listed in Request 3.
5. Records from January 20, 2017 that name or refer to Don't Shoot Portland, Don't Shoot PDX, Black Gallery PDX, Teresa Raiford, Sean Kealiher, and/or ACLU of Oregon. This request is limited to the TITAN Fusion Center and does not include litigation records that the listed groups are involved with.
6. Records describing the process and/or procedures individuals may use to find out whether and what information about themselves has been collected and maintained by Oregon TITAN fusion center, and the process by which any inaccurate information may be challenged and expunged.

Request for Expedited Processing

These records are urgently needed to inform the public about actual or alleged government activity. Specifically, the use of fusion centers to investigate protesters and communities of color raises significant privacy, civil rights, and civil liberties concerns. Yet, there is little publicly-available information about how fusion centers gather, use, and disseminate information and data and the existence or effectiveness of any safeguards that are in place.

Specifically, the public does not know what activities fusion centers are engaging in; who they are targeting and how these targets are selected; what role state and local law enforcement entities are playing; and whether adequate safeguards are in place to ensure that protestors' liberties and rights are protected. Thus, timely access to information regarding the TITAN fusion center's practices and policies to protect privacy, rights, and liberties is urgently needed to inform the public about this government activity, which has potentially far-reaching implications.

Request for Waiver or Reduction of Fees Because Disclosure Benefits the Public

Both the ACLU of Oregon and Don't Shoot PDX are non-profit public interest organizations with missions that include educating the public about threats to an inclusive and free democracy, including threats compromising their privacy and right to protest. This Request 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 ACLU of Oregon. Because limited information about the Oregon TITAN fusion center is publicly available, the records sought are certain to contribute significantly to the public's understanding of the scope of involvement of these counter-terrorism tools in policing domestic protests.

Furthermore, the ACLU of Oregon also has the ability and commitment to ensure a significant portion of the public is educated about what it learns through this public records request. The ACLU of Oregon frequently disseminates information to the public about government and law enforcement activities through our website, social media, legislative advocacy, and public engagement activities. Additionally, the ACLU of Oregon regularly communicates with over 30,000 members and supporters through the mail, e-mail, social media, and other online forums.

Request for Explanation of Any Exemptions Invoked

The ACLU of Oregon and Don't Shoot PDX recognize that Oregon public records law contains some exemptions. However, many exemptions are conditional and the law balances the need for confidentiality against the public interest in disclosure of the records. See, e.g., *American Civil Liberties Union of Oregon v. City of Eugene et al.*, 360 Or. 269 (2016). Given the strong public interest in disclosure discussed above, the ACLU of Oregon and Don't Shoot PDX urge the

Oregon Dept. of Justice to presume records should be disclosed. The ACLU of Oregon and Don't Shoot PDX also respectfully request an explanation of any exemptions relied upon to deny, partially or fully, any records requested herein.

In accordance with Oregon public records laws, please respond as soon as practicable and without unreasonable delay. You must acknowledge receipt of this request within five (5) business days of receiving the request, and you must complete your response to this request within ten (10) business days after providing us with acknowledgement of receipt (i.e., within 15 business days after receiving this request). See ORS 192.329. Kindly furnish all applicable records to the ACLU of Oregon at **publicrecords@aclu-or.org** if in electronic format; if in hard copy, please send to: ACLU of Oregon, Attention: Public Records, P.O. Box 40585, Portland, OR 97240.

Sincerely,

Lisa Kwon
Legal Associate
ACLU of Oregon