

UNITED STATES  
FOREIGN INTELLIGENCE SURVEILLANCE COURT OF REVIEW  
WASHINGTON, D.C.

OCT 14 2020 PM 4:46

LeeAnn Flynn Hall, Clerk of Court

IN RE OPINIONS AND ORDERS OF THE  
FISC CONTAINING NOVEL OR  
SIGNIFICANT INTERPRETATIONS OF LAW

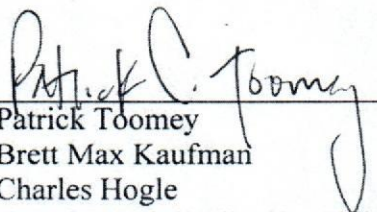
Docket No. MISC. 20-02

**NOTICE OF APPEAL**  
**OR IN THE ALTERNATIVE PETITION FOR A WRIT OF MANDAMUS**

Pursuant to FISCR Rules of Procedure 5 and 8, Movant American Civil Liberties Union hereby appeals from the Foreign Intelligence Surveillance Court's Order and Opinion entered on September 15, 2020, in Docket No. Misc. 16-01, to the United States Foreign Intelligence Surveillance Court of Review, or in the alternative petitions for a writ of mandamus.

Movant recognizes that this Court has previously determined that it does not have jurisdiction to consider an appeal or petition for a writ of mandamus filed by a movant claiming a First Amendment right of public access to the FISC's legal opinions. *In re Opinions and Orders by the FISC Addressing Bulk Collection of Data Under the Foreign Intelligence Surveillance Act*, 957 F.3d 1344 (FISCR 2020) (per curiam). Movant respectfully submits this notice of appeal and petition for a writ of mandamus, however, in order to preserve its ability to seek further review.

Dated: October 14, 2020

  
Patrick Toomey  
Brett Max Kaufman  
Charles Hogle  
American Civil Liberties Union  
Foundation

125 Broad Street, 18th Floor  
New York, NY 10004  
Phone: (212) 549-2500  
Fax: (212) 549-2654  
ptoomey@aclu.org

Arthur B. Spitzer  
Michael Perloff  
American Civil Liberties Union Foundation  
of the District of Columbia  
915 15th Street NW, 2nd Floor  
Washington, D.C. 20005  
Phone: (202) 457-0800  
Fax: (202) 457-0805  
aspitzer@acludc.org

David Schulz  
Charles Crain  
Media Freedom & Information Access  
Clinic, Abrams Institute  
Yale Law School  
P.O. Box 208215  
New Haven, CT 06510  
Phone: (203) 436-5827  
Fax: (203) 432-3034  
david.schulz@ylsclinics.org

Alex Abdo  
Jameel Jaffer  
Knight First Amendment Institute at  
Columbia University  
475 Riverside Drive, Suite 302  
New York, NY 10115  
Phone: (646) 745-8500  
alex.abdo@knightcolumbia.org

## **CORPORATE DISCLOSURE STATEMENT**

The American Civil Liberties Union is a non-profit corporation. It has no parent corporations and does not issue stock. As a result, Movant does not have parent corporations or owners that are under foreign ownership, control, or influence, as defined in Intelligence Community Standard 700-01.



**CERTIFICATION OF BAR MEMBERSHIP AND  
SECURITY CLEARANCE STATUS**

Pursuant to FISCR Rules of Procedure 9(d), 9(e) and 19, Movant respectfully submits the following information:

**Bar Membership Information**

Undersigned counsel for Movant are licensed attorneys and members, in good standing, of the bars of United States district and circuit courts. *See* FISCR R.P. 9(d), 19.

Patrick Toomey is a member, in good standing, of the following federal courts: the United States Courts of Appeals for the Second, Fourth, Ninth, and Tenth Circuits; and the United States District Courts for the Eastern District of New York, the Southern District of New York, and the District of Colorado. He is licensed to practice law by the bars of the States of Massachusetts and New York.

Brett Max Kaufman is a member, in good standing, of the following federal courts: the Supreme Court of the United States; the United States Courts of Appeals for the Second, Third, Fourth, Ninth, District of Columbia, and Federal Circuits; and the United States District Courts for the Southern District of New York, the Western District of New York, and the District of Columbia. He is licensed to practice law by the bar of the State of New York.

Charles Hogle is a member, in good standing, of the United States District Court for the Southern District of New York. He is licensed to practice law by the bar of the State of New York.

Alex Abdo is a member, in good standing, of the following federal courts: the Supreme Court of the United States; the United States Courts of Appeals for the First, Second, Fourth, Ninth, and District of Columbia Circuits; and the United States District Courts for the Southern

District of New York and the Eastern District of New York. He is licensed to practice law by the bar of the State of New York.

Jameel Jaffer is a member, in good standing, of the following federal courts: the Supreme Court of the United States; the United States Courts of Appeals for the Second, Fourth, Sixth, Ninth, and District of Columbia Circuits; and the United States District Courts for the Southern District of New York, the Eastern District of New York, and the District of Columbia. He is licensed to practice law by the bar of the State of New York.

Arthur Spitzer is a member, in good standing, of the following federal courts: the Supreme Court of the United States; the United States Courts of Appeals for the Fourth, Ninth, District of Columbia, Federal, and Armed Forces Circuits; and the United States District Courts for the Districts of Columbia, the Eastern District of New York, and the Southern District of New York. He is licensed to practice law by the bar of the District of Columbia.

Michael Perloff is a member, in good standing, of the United States District Court for the District of Columbia. He is licensed to practice law by the bars of the District of Columbia and the State of New York.

David Schulz is a member, in good standing, of the following federal courts: the Supreme Court of the United States; the United States Courts of Appeals for the Second, Third, Fourth, Ninth, Tenth, and District of Columbia Circuits; and the United States District Courts for the District of Columbia, the District of Connecticut, and for all Districts of the State of New York. He is licensed to practice law by the bars of the District of Columbia, the State of New York, and the State of Connecticut.

Charles Crain is a member, in good standing, of the United States Court of Appeals for the Eleventh Circuit. He is licensed to practice law by the bar of the State of California.



### Security Clearance Information

Pursuant to FISCR Rule of Procedure 9(e), Movant certifies that Arthur Spitzer held a "Secret" security clearance issued in 2011 by the Department of Justice. Although this clearance technically expired in 2016, Mr. Spitzer has applied to renew that security clearance and he understands that he continues to be permitted access to classified information while his application is pending.

The point of contact for Mr. Spitzer's security clearance is:

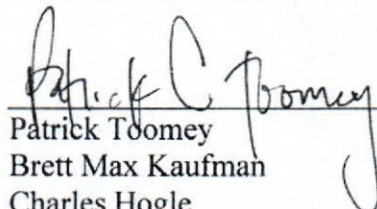
Debra M. Guerrero-Randall  
Security Specialist  
U.S. Department of Justice  
SEPS - Litigation Security Group  
2CON 2W.115  
Washington, DC 20530  
Phone: (202) 514-9016  
Fax: (202) 307-2066

Because Movant's motion and the related briefing does not contain classified information, Movant respectfully submits that all undersigned counsel may participate in proceedings on the motion without access to classified information or security clearances. *See* FISCR R.P. 19 (requiring counsel to have only "the appropriate security clearance").

Dated: October 14, 2020

David A. Schulz  
Charles Crain  
Media Freedom & Information Access Clinic  
Abrams Institute  
Yale Law School  
P.O. Box 208215  
New Haven, CT 06520  
Phone: (203) 436-5827  
Fax: (203) 432-3034

Respectfully submitted,

  
Patrick Toomey  
Brett Max Kaufman  
Charles Hogle  
American Civil Liberties Union Foundation  
125 Broad Street, 18th Floor  
New York, NY 10004  
Phone: (212) 549-2500  
Fax: (212) 549-2654  
ptoomey@aclu.org

david.schulz@ylsclinics.org

Alex Abdo  
Jameel Jaffer  
Knight First Amendment Institute at Columbia  
University  
475 Riverside Drive, Suite 302  
New York, NY 10115  
Phone: (646) 745-8500  
alex.abdo@knightcolumbia.org

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Michael Perloff  
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District of Columbia  
915 15th Street NW, 2nd floor  
Washington, D.C. 20005  
Phone: (202) 457-0800  
Fax: (202) 457-0805  
aspitzer@acludc.org

## CERTIFICATE OF SERVICE

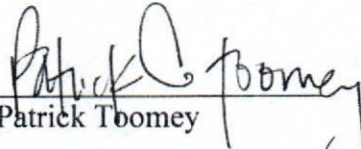
I, Patrick Toomey, certify that on this day, October 14, 2020, a copy of the foregoing document was served on the following persons by the methods indicated:

By email

Daniel Hartenstine  
Litigation Security Group  
U.S. Department of Justice  
2 Constitution Square  
145 N Street, N.E.  
Suite 2W-115  
Washington, DC 20530  
Daniel.O.Hartenstine@usdoj.gov

By email

Jeffrey Smith  
Counsel, Appellate Unit  
U.S. Department of Justice  
National Security Division  
950 Pennsylvania Ave., N.W.  
Washington, DC 20530  
Jeffrey.Smith5@usdoj.gov

  
Patrick Toomey