



U.S. Department of Justice

Office of Information and Privacy

Telephone: (202) 514-3642

Washington, D.C. 20530

Mr. Thomas Fitton
President
Judicial Watch, Inc.
501 School St., S.W.
Suite 725
Washington, DC 20024

JUN 27 2000

Re: DAG/99-R0685
MAP:TSW:LAD

Dear Mr. Fitton:

This responds to your letter addressed to this Office, dated September 2, 1999, and received by this Office on September 7, 1999, in which you requested certain records in the Office of the Deputy Attorney General pertaining to the "commutation of sentences of prisoners belonging to or associated with the *Fuerzas Armadas de Liberacion Nacional (FALN)*," and "*Los Macheteros*," as well as "clemency reports regarding President Clinton's sentencing commutation of convicted *FALN* and/or *Los Macheteros* members," and "political factors involved in the above-mentioned clemency, including but not limited to the Senate aspirations of Hillary Rodham Clinton." I apologize for the delay of this response, which was caused by the need to consult with other Department components.

We conducted a search in the Department Executive Secretariat which is the official records repository for the Office of the Deputy Attorney General. We have located eight documents, totaling fourteen pages, that are responsive to your request. I have determined that these documents are appropriate for release without excision and copies are enclosed. In addition, we located thirty-one documents, totaling thirty-nine pages, that we referred to the Office of the Pardon Attorney for processing and direct response to you. I understand that those documents were released to you in their entirety.

Please be advised that I have reevaluated your request for a fee waiver based on the substantive content of the records being disclosed to you and have determined that you are not entitled to a fee waiver. A fee waiver is appropriate only when "disclosure of the requested information is in 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." 5 U.S.C. § 552(a)(4)(A)(iii); see also 28 C.F.R. § 16.11(k) (six fee waiver factors to be considered). Based upon the responsive documents we located and are releasing in full, our knowledge of the subject matter, and our general familiarity with the records that are responsive to this request, we have determined that a fee waiver is not appropriate. A significant portion of the responsive records that have yet to be processed consist of routine correspondence similar in nature to what is being disclosed by way of this letter. Such correspondence consists of letters from religious groups, law enforcement groups and other individuals and organizations expressing their views regarding clemency for the *FALN* members.

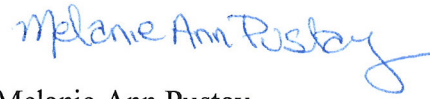
Responses from the Department are likely to be similar to the September 8, 1998 letter from Deputy Attorney General Holder that is enclosed. This letter consists of routine language used in response to current public inquiries into pending matters concerning incarcerated individuals. Such routine exchange of correspondence lacks substantial informative value and would not, therefore, contribute significantly to public understanding of government operations as required by statute. Furthermore, to warrant a waiver or reduction of fees, the public's understanding of the subject matter in question, as compared to the level of public understanding existing prior to the disclosure, must be likely to be enhanced by the disclosure to a significant extent. The views of various groups were widely reported in the media and therefore, do not provide new information to the public. Finally, based upon our knowledge of two similar requests for FALN material, we have identified a large number of responsive documents that are exempt from disclosure. The government is not required to forego statutory exemptions in response to a request for a public interest fee waiver and, a fee waiver is certainly not appropriate for records that are. Thus, we have denied your request for a fee waiver.

As previously outlined in our acknowledgment letter of September 21, 1999, we have determined that you are a non-media, non-commercial requester pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(III). Therefore, you are entitled to two free hours of search time and 100 pages of records without incurring search or duplication charges. Please be advised that the search in the Department Executive Secretariat took a total of six hours to complete. As a matter of discretion we are providing you without charge these four additional hours. We are providing these additional four hours because we were simultaneously searching for records in a similar request. However, we estimate that it will take an additional fifteen hours to complete our search in the Office of the Deputy Attorney General. The search fee for professional personnel is \$28 per hour. See 28 C.F.R. § 16.11(c)(1)(ii)(1999). Thus, our estimate to complete the entire search is \$420. Although you are entitled to an additional eighty-six pages of material without duplication charge, in order for this Office to complete the processing of your request you must agree to pay the estimated search fees. Because this estimate exceeds \$250, we require an advance payment of \$250. See 28 C.F.R. § 16.11(i)(2). You may also choose to specify a particular amount you are willing to pay and forward a check for that amount. Please forward your check or money order made payable to the United States Treasury, to the Office of Information and Privacy, Flag Building, Suite 570, Washington, D.C. 20530-0001. Please note "DAG/99-R0685" on your check or money order and your envelope. If we have not received your check or money order within thirty calendar days from the date of this letter, we will assume you are no longer interested in pursuing this matter, and your request will be administratively closed in this Office.

Although I am aware that your request is the subject of ongoing litigation and that appeals are not ordinarily acted on in such situations, I am required by statute and regulation to inform you of your right to file an administrative appeal. Such an appeal would be made by writing to the Co-

Director, Office of Information and Privacy, United States Department of Justice, Flag Building,
Suite 570, Washington, D.C. 20530-0001, within sixty days from the date of this letter.

Sincerely,



Melanie Ann Pustay
Deputy Director

Enclosures

Department of Justice
EXECUTIVE SECRETARIAT
CONTROL SHEET

1. FOLDER No: 548568
2. TRACKING ID No: X98-079806
3. RESERVED
4. DATE OF DOCUMENT: 06/03/1998
5. DATE RECEIVED: 06/09/1998
6. DUE DATE: No Due Date

7. FROM: Luis N. Falcon
Coordinator
Comite Pro-Derechos Humanos En Puerto Rico
San Juan, PR 00907

8. TO: DAG

9. CATEGORY: GENERAL

10. SUBJECT:
Letter (rec'd from ODAG) inquiring as to why Puerto Rican political prisoners Alberto Rodriguez and Ricardo Jimenez were transferred from the USP in Lewisburg to other facilities in Texas and Indiana. Also requests that the DAG provide a favorable recommendation on the petition to release the prisoners. (kgt)

11. ACTION/INFORMATION:

Referred To:	Date Assigned:	Action:
ESFILES	09/10/1998	For closing, filing, and dispatching. Original signed letter returned to BOP for dispatch.
ODAG	06/29/1998	For DAG signature. 9/10/98: DAG signed revised letter dated 9/8/98.
BOP	06/09/1998	For component response. 6/10/98: Per request from BOP, sig level changed from BOP to DAG. ODAG approved. 6/29/98: w/memo from BOP dtd 6/26/98, submitting a response for DAG signature.

Referred To:	Date Assigned:	Information:
ODAG	06/09/1998	For information.
OPA	06/09/1998	For information.

12. RESERVED FOR EXECUTIVE SECRETARIAT USE
DAG FILE: ASYLUM
Puerto Rican political prisoners

(6)
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13. EXECUTIVE SECRETARIAT CONTACT: Kimberly Tolson, 514-8588

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Office of the Deputy Attorney General

Washington, D.C. 20530

September 8, 1998

Dr. Luis Nieves Falcón
Coordinator
Comite Pro-Derechos Humanos En Puerto Rico
Calle Rodriguez Serra #8
Suite 2 B
San Juan, Puerto Rico 00907

Dear Dr. Falcón:

This is in response to your letter concerning Ricardo Jiménez and Alberto Rodríguez, inmates currently incarcerated by the Bureau of Prisons. You request an explanation for the transfer of these inmates from the United States Penitentiary (USP), Lewisburg, Pennsylvania, to other penitentiaries. Additionally, you request assistance in securing Messrs. Jiménez and Rodríguez' transfer to a lower security facility in closer proximity to their families and community. Lastly, you request a favorable recommendation on their petition for release from incarceration.

The Bureau of Prisons (BOP) attempts to place inmates at facilities as close to their homes as possible, commensurate with their security needs. However, due to security and custody concerns, as well as individual inmate programs needs, this is not always possible.

Both individuals were transferred for adjustment purposes based on sound correctional judgment in response to safety and security concerns at USP, Lewisburg. We believe these individuals are not appropriate candidates for a transfer to a lower security facility and are correctly placed at this time.

As you know, the request you filed for commutation of the sentences of Messrs. Jiménez and Rodríguez and a number of other Federal prisoners is presently under consideration. Your letter has been incorporated into the clemency file on this matter.

I trust this information assists you in understanding BOP policy and our position in this matter.

Sincerely,

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Eric H. Holder, Jr.
Deputy Attorney General

COMITE PRO-DERECOS HUMANOS EN PUERTO RICO
Calle Rodríguez Serra #8
Suite 2 B
San Juan, PR 00907
Tel/Fax (787) 723-9829

June 3, 1998

Hon Eric H. Holder, Jr.
Deputy Attorney General
U.S. Department of Justice
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530

Re: Alberto Rodríguez, 92150-024
Ricardo Jiménez, 88967-024

Dear Mr. Holder:

While we were glad to hear that the Department of Justice will soon make its recommendation to the White House on our long-pending application for the release of the Puerto Rican political prisoners in U.S. custody, that was certainly not our reaction to learning that Messrs. Rodríguez and Jiménez were abruptly transferred this week. While we do not want to distract you from the business at hand, we must advocate for their humane treatment while they remain in custody. It is difficult to fathom why these two men would be uprooted and, in Mr. Rodríguez' case, moved to a prison even farther from their loved ones. We attach recent correspondence from their attorney to the warden at USP Lewisburg asking the warden to simply leave them alone. We understand that he never responded to the letter. Could it be that these moves are the vindictive response? Bureau of Prisons officials have refused to offer any legitimate justification for either the fact that they were moved or for the prisons to which they have been designated: USP Beaumont, TX, and USP Terre Haute, IN, respectively.

We believe, particularly in light of our optimism that the White House will soon grant their release, that they should be placed in lower security prisons close to their families and communities, so as to ease their reentry into civil

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society. Whether or not that is done, we would like to know the reasons for these latest moves, and we must ask that the Bureau of Prisons permit them to serve in peace and unmolested whatever portion remains of their disproportionately lengthy sentences. Of course the best response we could hope for from you would be a favorable recommendation on the petition for their release.

Sincerely yours,



Dr. Luis Nieves Falcón
Coordinator

cc: Kathleen Hawk, Director
Federal Bureau of Prisons
320 First St., N.W.
Washington, D.C. 20534

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PEOPLE'S LAW OFFICE

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Joey L. Mogul
John L. Stainthorp
Jan Susler
G. Flint Taylor, Jr.
Erica Thompson

March 25, 1998

Of Counsel

Michael E. Deutsch

Page True, Warden
USP Lewisburg
Box 1000
Lewisburg, PA 17837

Re: Alberto Rodríguez, 92150-024
Ricardo Jiméncz, 88967-024
Edwin Cortés, 92153-024

Dear Warden True,

Several recent developments regarding my clients inspires this letter asking that you and your staff cease harassing them.

Mr. Cortés, as you know, was recently transferred from USP Terre Haute, to which he had requested transfer due to its proximity to his home in Chicago. If the distance from his family were not punishment enough, he was transferred while USP Lewisburg was on lockdown. Additionally, staff have refused to provide him with copies of the transfer documents, asserting variously, and without any legitimate basis, that he "required closer staff supervision" or was "too influential" in the population. Since his arrival, the administration has seemed quite anxious to make him responsible for requests on the part of Spanish speaking prisoners that the institution provide a Spanish speaking television channel, threatening that if anything happened, they would come for him first.

Mr. Rodríguez, as you also know, has spent more than a decade at USP Lewisburg, accumulating a spotless record, not just of clear conduct but of remarkable accomplishments, probably unequaled by any other person. Instead of recognizing these achievements, reducing his security, and transferring him to a lower security prison, as would happen with a social prisoner, the administration sought to punish him in relation to the same television issue, apparently due to something he wrote in outgoing mail, holding him in segregation for a full week.

Mr. Jiménez, who has devoted himself to tutoring and AIDS peer counseling, was called a "notorious inmate" by your assistant Lori Cunningham, according to The Daily Item of January 18, 1998.

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Page True
March 25, 1998
Page Two

Finally, on March 17, in a ridiculous show of force, your staff harassed and threatened Messrs. Cortés, Jiménez and Rodríguez concerning legal mail I had sent them. While staff never bothered to explain to Messrs. Jiménez and Rodríguez why they were being walked to R&D near the segregation unit, staff apparently told Mr. Cortés that the canine patrol indicated my legal mail, and that of another attorney, contained drugs. At the same time my clients were being threatened, Mr. Armond Booth was phoning me, and, without even giving me the courtesy of informing me that he was conducting such an investigation, sought to elicit a statement from me. Let me assure you, sir, that my clients and I engage in no such conduct and do not appreciate having such accusations hurled our way.

You are aware, sir, of the political nature of their imprisonment--Ms. Cunningham apparently published to your local paper a description that they are "political dissident[s] from Puerto Rico's independence movement". You are undoubtedly aware that a pending request asking President Clinton to release them from prison enjoys wide support. Certainly these latest efforts would not be designed to undermine the positive records all three of them have accumulated, so as to attempt to prejudice this effort?

We must insist, Warden Page, first, that you leave them to serve their disproportionately lengthy sentences in peace and without any further harassment; and second, that you promptly reduce their security levels and transfer them to lesser security prisons. May I please hear your response.

Sincerely yours,

Jan Susler
Attorney at Law

cc: Alberto Rodríguez
Ricardo Jiménez
Edwin Cortés

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Erica Thompson
Of Counsel
Michael E. Deutsch

October 14, 1997

Hon. Eric H. Holder, Jr.
Deputy Attorney General
U.S. Department of Justice
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530

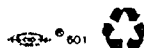
Re: Oscar López Rivera, 87651-024
USP Marion

Dear Deputy Attorney General Holder:

I am writing to ask that you conduct a formal inquiry into the conditions of confinement of my client, Oscar López Rivera, who is one of fifteen Puerto Rican women and men in prison for their activities in support of independence for Puerto Rico. A pardon application for their unconditional release, submitted in 1993, will hopefully reach your desk soon. We write to advocate for Mr. López' human rights during the pendency of that application.

Bureau of Prisons officials seem to have singled out Mr. López for special and more onerous treatment than other prisoners, apparently because of his political beliefs and affiliations. Such treatment would be contrary to the principles the U.S. government holds forth. This is a serious accusation, and the evidence to support our conclusions is attached. Briefly, Bureau policy states that a prisoner's conduct determines his placement: those who "demonstrate an inability to function in a less restrictive environment" warrant highest security placement, and those who comply with prison rules, by "completing the ADX Florence program will ordinarily be transferred to a High Security facility, other than USP Marion." Mr. López' conduct, however, seems irrelevant. After he successfully completed the rigorous program at the new ADX Florence, in November of 1996, Bureau of Prisons [BOP] officials returned him to USP Marion, in spite of the recommendation of ADX personnel that he be placed in a lower security prison, in spite of BOP representations that one who completes the ADX program will "earn" his way to a lower security prison, in spite of the fact that every other graduate of the ADX program was in fact placed in a lower security prison, and in spite of the fact that Mr. López had served more time at USP Marion than other ADX graduates. To make matters worse, last month, although Mr. López' conduct continued to be exemplary, Marion officials moved him from a unit where he was housed in a cell with bars to one where he is now held in a solid, closed front cell, effectively sealing out what little sensory stimulation was available.

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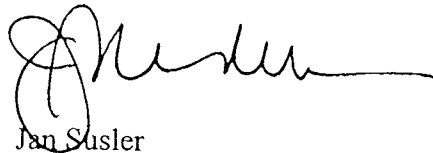
Hon. Eric H. Holder, Jr.

October 14, 1997

Page Two

Our attempts to resolve this human rights matter with the Bureau of Prisons have, to date, met with no success. As you will see from the attached correspondence, the Bureau has not offered any legitimate reason for its special, harsh treatment of Mr. López. We trust that you will initiate an inquiry immediately, with an eye to moving Mr. López immediately to the general population of a regular maximum security prison such as USP Lewisburg or its equivalent. We will look forward to your prompt response. Thank you in advance for your attention and concern.

Sincerely yours,



Jan Susler
Attorney at Law

JMS/bjm

cc: BOP Director Kathleen Hawk
Congressman Luis V. Gutiérrez
Congresswoman Nydia Velásquez
Congressman José Serrano
Civil Rights Division Director Isabel Pinzler, Esq.
White House Interagency Group on Puerto Rico Co-Chair Jeffrey Farrow

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APPENDIX

Susler letter to Hon. Janet Reno, November 11, 1996

Susler letter to Hon. Janet Reno, December 4, 1996

Susler letter to Director Kathleen Hawk, December 10, 1996

Assistant Director Cooksey letter to Susler, February 26, 1997

Susler letter to Assistant Director Cooksey, March 12, 1997

Assistant Director Cooksey letter to Susler, March 31, 1997

Susler letter to Unit Manager Murphy, September 1, 1997

Susler letter to Unit Manager Murphy, October 9, 1997

Dennis Cauchon, "The Alcatraz of the Rockies", **USA Today**, November 16, 1994

ADX Florence Institution Supplement FLM 5321.1B, May 26, 1995, "General Population and Step-Down Unit Operations"

USP Marion Institution Supplement MAR 5210.2B, August 26, 1996, "G and H Unit Operations"

USP Marion Institution Supplement MAR 5500.7B, December 4, 1995 "East Corridor Unit Operations" •

BOP Program Supplement 5100.06, June 7, 1996, Chapter 9, pages 10, 11

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Department of Justice
EXECUTIVE SECRETARIAT
CONTROL SHEET

1. FOLDER No: 222172
2. TRACKING ID No: X96-216992
3. RESERVED
4. DATE OF DOCUMENT: 11/15/1996
5. DATE RECEIVED: 11/20/1996
6. DUE DATE: No Due Date

7. FROM: Paul H. Sherry
United Church of Christ
Cleveland, OH 44115

8. TO: DAG

9. CATEGORY: PRIORITY1

10. SUBJECT:

Letter (rec'd from ODAG) regarding a prior letter from Joan Campbell and himself regarding their interest in the case of 15 Puerto Ricans incarcerated because of their beliefs and acts in favor of Puerto Rican independence. Encloses a copy of the letter they sent to Jack Quinn regarding the action of the National Council of the Churches of Christ. Thanks the DAG for her attentiveness to this matter. see folders 209210, 209338 & 219068. (kgt)

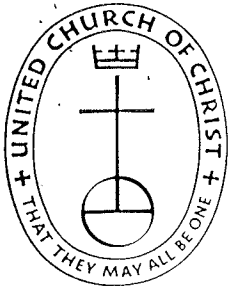
11. ACTION/INFORMATION:

Referred To:	Date Assigned:	Information:
BOP	11/21/1996	For information.
OAG	11/21/1996	For information.
ODAG	11/21/1996	For information.
OPA	11/21/1996	For information.

12. RESERVED FOR EXECUTIVE SECRETARIAT USE
DAG FILE: PARDONS

13. EXECUTIVE SECRETARIAT CONTACT: Kimberly Tolson, 514-8588

(13)
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United Church of Christ

Office of the President
216 - 736-2101
Office of the Secretary
216 - 736-2110
Office of the Treasurer
216 - 736-2114
700 Prospect Avenue
Cleveland, Ohio 44115
Fax 216 - 736-2120

November 15, 1996

Ms. Jamie Gorelick
Deputy Attorney General
US Department of Justice
950 Pennsylvania Ave., NW
Washington, DC 20530-0001

Dear Ms. Gorelick:

As you may recall, the Rev. Dr. Joan Campbell and I wrote to you last month regarding our interest in the case of fifteen Puerto Rican men and women incarcerated because of their beliefs and acts in favor of Puerto Rican independence. I am pleased now to enclose a copy of the letter we have sent to Mr. Quinn regarding the action of the National Council of the Churches of Christ.

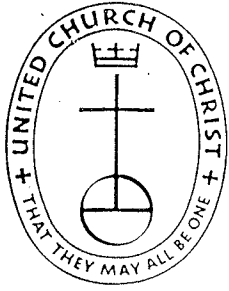
Please know of our deepest gratitude for your attentiveness to this matter. May the God of love and justice bless and guide you.

Sincerely,

Paul H. Sherry

Paul H. Sherry
President

000100



United Church of Christ

Office of the President
216 - 736-2101
Office of the Secretary
216 - 736-2110
Office of the Treasurer
216 - 736-2114
700 Prospect Avenue
Cleveland, Ohio 44115
Fax 216 - 736-2120

November 15, 1996

Mr. Jack Quinn
Counsel to the President
The White House
1600 Pennsylvania Ave.
Washington, DC 20500

Dear Mr. Quinn:

I write to thank you, once again, for your hospitality to us last month. I also wish to alert you that at our initiative, an action was taken by the Executive Committee of the National Council of the Churches of Christ, requesting that the General Secretary call on President Clinton to release the fifteen Puerto Rican men and women incarcerated because of their beliefs and acts in favor of Puerto Rican independence, and commending to the President the holy season of Christmas as an especially appropriate time for such an act of reconciliation and family reunification.

Although you will be formally notified by the NCCC of this action, we are writing at this time to keep you abreast of our concern for this issue. The support of several religious bodies was noted in the background information, including the United Methodist Church, the Progressive National Baptist Convention, Inc., and the Baptist Peace Fellowship; during the discussion, the Presiding Bishops of the African Methodist Episcopal and Christian Methodist Episcopal churches particularly noted their support as well.

As you recall, we regard this issue as an urgent humanitarian concern in light of the long years that these women and men have already served in prison and the advanced age of many of their family members.

Last month, we discussed our hope that the Justice Department's review of the pardon application may be nearing completion, so that the application can come before your office, and the President, for consideration. We are most eager to learn of the application's status.

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Please know of our deepest gratitude for your attentiveness to this matter. We pray that God will continue to bless and guide you, and we look forward to hearing from you in the not-too-distant future.

Faithfully,

Paul H. Sherry

Paul H. Sherry

cc: Ms. Dawn Chirwa
Ms. Janet Reno
Ms. Jamie Gorelick
Ms. Margaret Colgate Love
Selected colleagues

000108

U.S. Department of Justice
QIP/570 FLAG
Washington, D.C. 20530

Mr. Thomas Filton
President
Judicial Watch, Inc.
501 School St., S.W.
Suite 725
Washington, D.C. 20024

