

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

JUDICIAL WATCH, INC.
501 School Street, S.W., Suite 725
Washington, DC 20024

Plaintiff,

v.

UNITED STATES DEPARTMENT OF
JUSTICE
950 Pennsylvania Avenue, N.W.
Washington, DC 20530,

and

FEDERAL BUREAU OF INVESTIGATION
J. Edgar Hoover Building
935 Pennsylvania Ave., NW
Washington, DC 20535

and

EXECUTIVE OFFICE FOR UNITED
STATES ATTORNEYS
600 E Street, NW
Room 7100
Washington, DC 20530-0001

Defendants.

Civil Ac
CASE NUMBER 1:00CV00745
JUDGE: Thomas F. Hogan
DECK TYPE: FOIA
DATE STAMP: 04/07/2000

**COMPLAINT FOR DECLARATORY AND
INJUNCTIVE RELIEF**

Comes now Plaintiff, Judicial Watch, Inc., and hereby files a complaint for compliance with the Freedom of Information Act, 5 U.S.C. § 552 *et seq.* ("FOIA"). Plaintiff respectfully alleges as follows:

JURISDICTION AND VENUE

1. This court has jurisdiction over this action pursuant to 28 U.S.C. § 1346(a)(2) (United

States as defendant), and 5 U.S.C. § 552(a)(4)(B) (FOIA).

2. Venue is proper in this district pursuant to 5 U.S.C. § 552(a)(4)(B).

PARTIES

3. Plaintiff, whose principal place of business is 501 School Street, S.W., Suite 725, Washington, D.C. 20024, is organized as a non-profit corporation under the laws of the District of Columbia. Plaintiff, who requested certain documents under FOIA, intends to disseminate the requested documents to its supporters and benefactors, government officials, appropriate news media, and to the American public at large. The documents Plaintiff seeks are likely to contribute significantly to the public's understanding of the operations and activities of Defendants United States Department of Justice, Federal Bureau of Investigation, and Executive Office of United States Attorneys. Plaintiff is empowered to undertake educational and other programs to promote and protect the public interest in connection with this and other matters.

4. Defendant United States Department of Justice (DOJ) is an agency and entity of the United States Government. Defendant DOJ has its principal place of business in the District of Columbia. Defendant DOJ has possession of the documents to which Plaintiff seeks access.

5. Defendant Federal Bureau of Investigation (FBI) is an agency and entity of the United States Government. Defendant FBI has its principal place of business in the District of Columbia. Defendant FBI has possession of the documents to which Plaintiff seeks access.

6. Defendant Executive Office of United States Attorneys (EOUSA) is an agency and entity of the United States Government. Defendant EOUSA has its principal place of business in the District of Columbia. Defendant EOUSA has possession of the documents to which Plaintiff seeks access.

COUNT I

7. Plaintiff filed with Defendants on September 2, 1999 *via* facsimile and certified mail, a FOIA request (*see* Exhibit 1) in the form of a letter to Defendant's Freedom of Information Act Officer, requesting access to certain records under FOIA. Access was requested to "all correspondence, memoranda, documents, records, lists of names, applications, diskettes, letters, expense logs and receipts, calendar or diary logs, facsimile logs, telephone records, tape recordings, video recordings, notes, photographs, electronic mail, and other documents and things, that refer or relate to the following in any way":

a. Commutation of sentences of prisoners belonging to or associated with the *Fuerzas Armadas de Liberacion Nacional* (FALN)[Armed Forces of National Liberation].

b. Commutation of sentences of prisoners belonging to or associated with the *Los Macheteros*.

c. Clemency reports regarding President Clinton's sentencing commutation of convicted FALN and/or *Los Macheteros* members.

d. Political factors involved in the above-mentioned clemency, including but not limited to the Senate aspirations of Hillary Rodham Clinton.

8. By letter dated September 21, 1999 the Office of Information and Privacy, an entity within and acting on behalf of Defendant DOJ responded to Plaintiff's FOIA request (*see* Exhibit 2).

9. In the September 21, 1999 letter, the Office of Information and Privacy, an entity within and acting on behalf of Defendant DOJ denied Plaintiff the status of "representative of the news media," for the purposes of determining whether to grant Plaintiff a fee waiver for the

processing of documents responsive to Plaintiff's FOIA request of September 2, 1999 (*see* Exhibit 2).

10. In the September 21, 1999 letter, the Office of Information and Privacy, an entity within and acting on behalf of Defendant DOJ denied Plaintiff's request for a fee waiver for the processing of documents responsive to Plaintiff's FOIA request of September 2, 1999. *Id.*

11. Pursuant to 5 U.S.C. § 552 (a)(6)(A)(I), on November 22, 1999, Plaintiff mailed *via* certified mail, an administrative appeal of Defendant DOJ's denial of Plaintiff's request to be designated a representative of the news media and Defendant DOJ's denial of Plaintiff's request for a fee waiver (*see* Exhibit 3).

12. Pursuant to 5 U.S.C. § 552 (a)(4)(A)(iii), Plaintiff is entitled to a fee waiver. The information sought by Plaintiff 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 in the commercial interest of the Plaintiff.

13. As April 7, 2000, Plaintiff had not received a substantive response to its administrative appeal to DOJ.

14. Pursuant to 5 U.S.C. § 552(a)(6)(C) therefore, Plaintiff shall be deemed to have exhausted its administrative remedies with respect to this request.

15. Pursuant to 5 U.S.C. § 552(a)(3), Plaintiff has a right of access to the documents requested in its FOIA request, and Defendant DOJ has no legal basis for refusing to disclose these documents to Plaintiff.

16. As of April 7, 2000, Plaintiff had received no substantive response to its FOIA request from Defendant FBI. (*See* Exhibit 4.)

17. Pursuant to 5 U.S.C. § 552(a)(6)(C), Plaintiff shall be deemed to have exhausted its

administrative remedies with respect to its request to Defendant FBI.

18. Pursuant to 5 U.S.C. § 552(a)(3), Plaintiff has a right of access to the documents requested in its FOIA request, and Defendant FBI has no legal basis for refusing to disclose these documents to Plaintiff.

19. As of April 7, 2000, Plaintiff had received no substantive response to its FOIA request from Defendant EOUSA. (*See Exhibit 5.*)

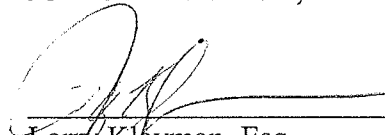
20. Pursuant to 5 U.S.C. § 552(a)(6)(C), Plaintiff shall be deemed to have exhausted its administrative remedies with respect to its request to Defendant EOUSA.

21. Pursuant to 5 U.S.C. § 552(a)(3), Plaintiff has a right of access to the documents requested in its FOIA request, and Defendant EOUSA has no legal basis for refusing to disclose these documents to Plaintiff.

WHEREFORE, Plaintiff prays that this Court: (1) declare that Defendants refusal to disclose the documents requested by Plaintiff is unlawful; (2) order Defendants to make the requested documents available to Plaintiff; (3) grant Plaintiff's request for a fee waiver; (4) award Plaintiff its costs and reasonable attorneys' fees in this action; and (5) grant such other and further relief as the Court may deem just and proper.

Respectfully submitted,

JUDICIAL WATCH, INC.



Larry Klayman, Esq.
D.C. Bar No. 334581
501 School Street, S.W., Suite 725
Washington, DC 20024
(202) 646-5172

Attorneys for Plaintiff

EXHIBIT 1



September 2, 1999

VIA CERTIFIED MAIL AND FAX (202-514-1009)

Melanie Ann Pustay
Deputy Director, Office of Information and Privacy
Suite 570, Flag Building
Department of Justice
Washington, DC 20530-0001

Re: Freedom of Information Act Request.

Dear Ms. Pustay:

Pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. 552, and its regulations, we hereby request from the Deputy Attorney General, all correspondence, memoranda, documents, records, lists of names, applications, diskettes, letters, expense logs and receipts, calendar or diary logs, facsimile logs, telephone records, tape recordings, video recordings, notes, photographs, electronic mail, and other documents and things, that refer or relate to the following in any way:

1. Commutation of sentences of prisoners belonging to or associated with the *Fuerzas Armadas de Liberacion Nacional* (FALN) [Armed Forces of National Liberation]
2. Commutation of sentences of prisoners belonging to or associated with the *Los Macheteros*
3. Clemency reports regarding President Clinton's sentencing commutation of convicted FALN and/or *Los Macheteros* members.
4. Political factors involved in the above-mentioned clemency, including but not limited to the Senate aspirations of Hillary Rodham Clinton.

Thank you for your expected cooperation in responding timely to our request, which should be within 20 working days as required under the Act, because time is of the essence.

Pursuant to the FOIA, if any portions of the requested documents are claimed to be privileged, those portions which are not claimed to be privileged should be provided to the undersigned. This should be done prior to the conclusion of the statutory 20-day period for response. In addition, under the FOIA there is an absolute requirement to produce those segregable portions of documents which are not claimed to be privileged, as well as a list ("Vaughn Index") that indicates by date, author, general subject matter, and claims of privilege(s) those documents, or portions thereof, which have been withheld or not provided. Vaughn v. Rosen, 484 F.2d 820 (D.C. Cir 1973), cert. denied, 415 U.S. 977 (1974); Iglesias v. Central Intelligence Agency, 525 F. Supp. 547 (D.C. 1981); see generally LaRocca v. State Farm Mut. Auto. Ins. Co., 47 F.R.D. 278 (W.D. Pa. 1985).

We note that President Clinton instructed agencies in October, 1993, to ensure compliance with both the spirit as well as the letter of the Act. *See* President Clinton's FOIA Memorandum, U.S. Department of Justice, FOIA Update, Summer/Fall 1993, at 3. In addition, Attorney General Reno issued a FOIA Memorandum in October, 1993, which *inter alia* states "I strongly encourage your FOIA officers to make 'discretionary disclosures' whenever possible under the Act," and orders "a presumption of disclosure." *See* Attorney General Reno's FOIA Memorandum, U.S. Department of Justice, FOIA Update, Spring 1994, at 1-2.

Judicial Watch also respectfully requests a blanket fee waiver on behalf of the public interest, to which it is entitled under 5 U.S.C. § 552(a)(4)(A); *see also, Larson v. Central Intelligence Agency*, 843 F.2d 1482, 1483 (D.C.Cir. 1988); *National Sec. Archive v. U.S. Dept. of Defense*, 880 F.2d 1381, 1385-87 (D.C.Cir. 1989); *see also, Judicial Watch, Inc. v. United States Dep't. of Commerce*, No. 95-0133 (D.D.C. May 16, 1995) (order granting Judicial Watch, Inc.'s request for fee waiver with regard to all responsive documents in proceeding).

Judicial Watch, Inc. is a non-profit, non-partisan, tax-exempt 501(c)(3) organization which as a public interest law firm specializes in deterring, monitoring, uncovering, and addressing public corruption in government. Judicial Watch has and will hold Republicans, Democrats, Independents, and others equally accountable to ethical and legal standards for honest and open government.

The requester has no commercial purpose as a 501(c)(3) non-profit organization organized exclusively to improve the ethical and legal standards in government, accountability of government officials to the rule of law, and public understanding of government operations.

Judicial Watch will also use the requested material to promote accountable government as a representative of the news media and the public in accordance with a second category provided under 5 U.S.C. § 552(a)(4)(A)(ii)(II) and *National Sec. Archive v. U.S. Dept. of Defense*, 880 F.2d 1381, 1385-87 (D.C.Cir. 1989), by disseminating relevant information which may be uncovered. Information will benefit the public by identifying areas for future reform as well as deterring future abuses that could otherwise proliferate without scrutiny.

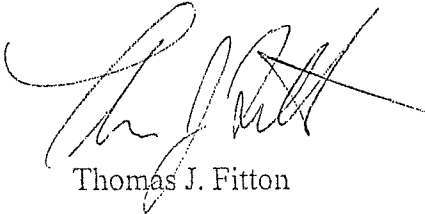
Judicial Watch has several mechanisms which will ensure rapid dissemination of information brought to light by this request. First, when Judicial Watch obtains responsive documents, it allows reporters into its offices to inspect the documents. These reporters then write stories based on information contained in the documents, which in appear nationwide in newspapers and magazines. Second, Judicial Watch produces several press releases per week which are "blast faxed" to hundreds of radio and television stations and newspapers around the country. Third, Judicial Watch maintains a website on which people can view copies of, among other things, press releases, responsive documents, deposition transcripts, and court opinions. Finally, Larry Klayman, the Chairman of Judicial Watch, and other Judicial Watch employees frequently appear on nationally broadcast radio and television programs. All of these facts demonstrate Judicial Watch's ability to disseminate information to the public and educate the public about the operations and activities of its government.

The subject of this request is information concerning the operations and activities of the government. Past experience of Judicial Watch demonstrates the success of Judicial Watch in uncovering important facts about government activities, integrity and operations, of broad concern to the public. Thus, Judicial Watch's request is likely to "contribute significantly" to the public's understanding of the operations of their government, satisfying the requirements of FOIA fee waiver provisions. Judicial Watch's capabilities and effectiveness are a matter of public record.

Immediate release of the requested information is in the public interest, including for promoting confidence in an honest democratic system, and furthering the integrity of the American national government by deterring and/or sanctioning corrupt activities. The failure to do so will likely result in the further compromise of important interests of the American people.

Sincerely,

JUDICIAL WATCH, INC.



Thomas J. Fitton

President

EXHIBIT 2



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

SEP 21 1999

Re: DAG/99-R0685
MAP:MHH: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." As such records are maintained outside of this Office, our staff has not yet been able to complete records searches to determine whether, in fact, there are records within the scope of your request. We also expect that we will need to undertake consultations with other Department components. Accordingly, we will be unable to comply with the twenty working day time limit for responding to your request, as well as the ten additional days provided by the statute.

In an effort to speed up this records search or reduce the amount of fees that may be incurred (which is described more fully below), you may wish to narrow the scope of your request to limit the number of potentially responsive records. Or you may agree to an alternative time frame for processing. Or you may wish to await the completion of our records searches and, if records are located, discuss these options. I regret the necessity of this delay, but I assure you that your request will be processed as soon as possible. If you have any questions, or wish to discuss a reformulation or an alternative time frame for the processing of your request, you may contact Laurie Day, the analyst handling this request, or me at (202) 514-3642.

Assuming there are responsive records regarding these subjects in the Office of the Deputy Attorney General, to facilitate the handling of your request, I am now considering your fee category and fee waiver requests. In your letter you suggest that Judicial Watch should be considered "a representative of the news media" for fee purposes. In support of this position, you state that Judicial Watch allows "reporters into its offices to inspect the documents," issues press releases, appears on radio and television programs, and maintains a web site. However, the Office of Management and Budget fee guidelines define a "representative of the news media" as "any person actively gathering news for an entity that is organized and operated to publish or

broadcast news to the public." See Uniform Freedom of Information Act Fee Schedule and Guidelines, 52 Fed. Reg. 10,012, 10,015, 10,018 (1987); see also 28 C.F.R. § 16.11(b)(6) (1998). Furthermore, the D.C. Circuit Court of Appeals has indicated that "middlemen" who request records for use by others are not considered members of the media. National Security Archive v. United States Dep't of Defense, 880 F.2d 1381, 1387 (D.C. Cir. 1989). Therefore, based upon the information that you have provided, I have determined that Judicial Watch does not qualify as a representative of the news media under 5 U.S.C. § 552(a)(4)(A)(ii)(II).

You also request a blanket fee waiver regarding disclosure of records pertaining to FALN and Los Machereros. As you are aware, the fact that you were granted a fee waiver with respect to disclosure of records pertaining to a different subject matter is not dispositive in this case. See, e.g., National Sec. Archive, 880 F.2d at 1388 (dictum) (fee waiver in one instance does not require same treatment in future); Judicial Watch, Inc. v. United States Dep't of Justice, No. 97-2089, slip op. at 14 (D.D.C. July 14, 1998); Dollinger v. United States Postal Serv., No. 95-CV-6174T, slip op. at 7-8 (W.D.N.Y. Aug. 24, 1995) (agency not bound by previous decision on fee waiver for similar request from same requester). A request for a fee waiver must be considered on a case-by-case basis. Wilson v. CIA, No. 91-0087, slip op. at 3 (D.D.C. Nov. 5, 1991) (agency must necessarily evaluate each fee waiver request on its own merits).

The FOIA's fee waiver standard speaks to whether or not disclosure of the requested information would be in the public interest. 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).

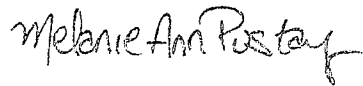
Your blanket assertion that "release of the requested information . . . [will] promot[e] confidence in an honest democratic system, and further[] the integrity of the American national government by deterring and/or sanctioning corrupt activities" is not a sufficient basis for me to grant a fee waiver. See, e.g., American Fed'n of Gov't Employees v. United States Dep't of Commerce, 632 F. Supp. 1272, 1278 (D.D.C. 1986) (allegations of malfeasance too ephemeral to warrant waiver of search fees without further evidence that informative material will be found), aff'd on other grounds, 907 F.2d 203 (D.C. Cir. 1990); Fazzini v. United States Dep't of Justice, No. 90 C 3303, slip op. at 11 (N.D. Ill. May 2, 1991) (allegations of government coverup, unsupported by objective evidence, do not create legitimate public interest for purposes of fee waiver); Conklin v. United States, 654 F. Supp. 1104, 1006 (D. Colo. 1987) (finding mere allegations of wrongdoing do not justify fee waiver). Your statements that Judicial Watch "will ensure rapid dissemination of information," Oglesby v. United States Dep't of the Army, 920 F.2d 57, 66 n.11 (D.C. Cir. 1990); Judicial Watch, No. 97-2089, slip op. at 13 (D.D.C. July 14, 1998), or that it is a "non-profit organization" do not provide sufficient grounds for my granting a fee waiver. Cf. OMB Fee Guidelines, 52 Fed. Reg. at 10,013 (non-profit status does not preclude finding of commercial use); Critical Mass Energy Project v. NRC, 830 F.2d 278, 281 (D.C. Cir. 1987) (entity's "non-profit status is not determinative" of commercial status).

A fee waiver is granted when it is determined that the substantive content of the disclosable portions of the records requested is likely to contribute significantly to public understanding of government operations or activities. 28 C.F.R. § 16.11(k)(2)(ii). If I determine in the course of disclosing records concerning FALN and Los Macheteros that the disclosed information warrants a partial or full fee waiver because release would "primarily benefit the public," I will grant such a waiver at that time. (Any monies that you have provided would be refunded in accordance with the amount of fee waiver that is granted.)

At this point, without a fee waiver being granted, Department of Justice regulations permit us to provide Judicial Watch, which we have determined to be an "other" requester pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(III), with two hours of search time per component searched and 100 pages of records without your incurring search or duplication charges. See 28 C.F.R. § 16.11(d). In order for us to process your request beyond that point, you must indicate your willingness to pay the fees incurred. You may choose a particular amount or merely indicate your willingness to pay. Should you choose the latter, you will only be obligated to pay \$25.00, pursuant to ~~28 C.F.R. § 16.3(c)~~. If we determine at some point that the search and duplication fees are likely to exceed \$25.00, we will so notify you of the estimated amount and once you indicate a willingness to pay such amount, continue the processing of your request. See 28 C.F.R. § 16.11(e).

If you disagree with my determination that Judicial Watch is not a "representative of the news media" or my denial of your fee waiver request, you may administratively appeal from either of these determinations 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 of the date of this letter. Both the letter and the envelope should be marked "Freedom of Information Act Appeal."

Sincerely,



Melanie Ann Pustay
Deputy Director

EXHIBIT 3



November 22, 1999

VIA FACSIMILE (202) 514-1009, AND HAND DELIVERY

Co-Director
Office of Information and Privacy
United States Department of Justice
Flag Building
1310 G Street, NW
Suite 570
Washington, DC 20530-0001

Re: **Freedom of Information Act Appeal**
DAG/99-R0685
MAP:MHH:LAD

Dear Sir or Madam:

This is in response to your letter of September 21, 1999 (a copy of which is attached) in which you respond to Judicial Watch's Freedom of Information Act ("FOIA") request of September 2, 1999. This request, which is also attached, sought from the Office of Information and Privacy ("OIP") of the Department of Justice: "all correspondence, memoranda, documents, records, lists of names, applications, diskettes, letters, expense logs and receipts, calendar or diary logs, facsimile logs, telephone records, tape recordings, video recordings, notes, photographs, electronic mail, and other documents and things, that refer or relate to the following in any way:

1. Commutation of sentences of prisoners belonging to or associated with the *Fuerzas Armadas de Liberacion Nacional* (FALN)[Armed Forces of National Liberation];
2. Commutation of sentences of prisoners belonging to or associated with the *Los Macheteros*;
3. Clemency reports regarding President Clinton's sentencing commutation of

501 School Street, S.W., Suite 725, Washington, DC 20024, Tel: (202) 646-5172; (888) JW-ETHIC
FAX: (202) 646-5199; email: info@judicialwatch.org; webpage: <http://www.JudicialWatch.org>

convicted FALN and/or *Los Macheteros* members;

4. Political factors involved in the above-mentioned clemency, including but not limited to the Senate aspirations of Hillary Rodham Clinton.

Your response determined that Judicial Watch is not a member of the news media (OIP Response at 2) and denied Judicial Watch's request for a fee waiver (OIP Response at 3). Judicial Watch hereby appeals both of these determinations.

First, you base your determination that Judicial Watch is not a representative of the news media on (1) the Office of Management and Budget's ("OMB's") guidelines which define a representative of the news media as "any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public," and (2) National Security Archive v. United States Department of Defense, 880 F.2d 1381, 1387 (D.C. Cir. 1989) ("National Security Archive") in which the Court "indicated" that "middlemen" are not considered members of the media. (*See* OIP Response at 2.)

Judicial Watch meets the OMB's definition of a representative of the news media. By, among other things, reviewing documents obtained from the government by FOIA requests, taking depositions, and interviewing persons who may have information on government misconduct, Judicial Watch is clearly an entity which gathers news. This news is then heavily disseminated to the public by the methods outlined in our FOIA request, (*See* FOIA Request, at 3).

Your claim that National Security Archive denies "middlemen" the status of "representative of the news media" is irrelevant because Judicial Watch is not a "middleman." National Security Archive defines a "middleman" as a group "that request[s] documents for use

by others,” National Security Archive, 880 F.2d at 1387. As shown above however, Judicial Watch is not a conduit for passing along raw information. Rather Judicial Watch examines, interprets, organizes and then disseminates information to the public. At any rate, the Court in National Security Archive specifically states that “[a] representative of the news media is, in essence, a person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience.” *Id.* This is precisely the kind of activity that Judicial Watch engages in on almost a daily basis.

National Security Archive also held that Appellant’s intent to act as a publisher qualified it as a representative of the news media. Appellant had already published one book and expressed its intent to publish others. *Id.* at 1386. Specifically, the Court found that these “activities...are, we think, well within the range that Congress ascribed to a ‘representative of the news media.’” *Id.* On September 28, 1998, Judicial Watch released its Interim Report on Crimes and Other Offenses Committed by President Bill Clinton Warranting His Impeachment and Removal From Elected Office. This 145 page report, which is accompanied by nearly 4000 pages of supporting documentation, was crafted from the “raw materials” obtained by Judicial Watch into a distinct work and widely disseminated to the public. Judicial Watch’s most recent publication was released on or around August 10, 1999. This “Filegate Status Report” is 136 pages long and is supported by nearly 1000 pages of exhibits. Judicial Watch will be publishing similar works in the future, using information gleaned from requests like the one at issue here. Under National Security Archive, therefore, Judicial Watch qualifies a “representative of the news media” on the basis of its Interim Report and “Filegate” report alone. Moreover, Judicial Watch maintains and

routinely disseminates FOIA information on its world wide web page, www.JudicialWatch.org, and on Saturday, November 13, 1999, began a weekly two hour radio broadcast entitled "The Judicial Watch Report." The Judicial Watch Report is broadcast to major radio stations nationwide, and will, in part, provide to the public further information gleaned from its FOIA requests.

Judicial Watch also appeals your denial of a fee waiver, as disclosure of the information sought by Judicial Watch is in the public interest, and is not in the commercial interest of Judicial Watch, which is a non-profit organization. Judicial Watch has already been granted a fee waiver on numerous other occasions. (*See e.g.*, Judicial Watch v. U.S. Department of Commerce, Civil Action No. 95-0133 (RCL)(D.D.C); Judicial Watch, Inc. v. Commission on United States-Pacific Trade and Investment Policy, Civil Action No. 1:97CV00099 (CKK)(D.D.C.); Judicial Watch of Florida v. U.S. Department of Justice, Civil Action No. 97-2869 (RMU)(D.D.C.); Judicial Watch v. General Services Administration, Civil Action No. 98-2223 (SS); Judicial Watch v. U.S. Department of State, Civil Action No. 99-1130 (TPJ). Judicial Watch was also twice granted fee waivers by the U.S. Department of Health and Human Services and was once granted a fee waiver by the U.S. Patent and Trademark Office among other federal agencies. As stated above, the information sought will be shared with the public, through the news media, and is likely to contribute significantly to public understanding of the activities of the Justice Department and the Clinton Administration. The possibility that FALN terrorists may have been considered for clemency for political reasons, as has been reported in the media, is obviously a matter of concern to the public.

Thank you for your prompt reply.

Sincerely,

JUDICIAL WATCH, INC.

A handwritten signature in black ink, appearing to read 'Larry Klayman', written over the typed name below.

Larry Klayman



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

SEP 21 1999

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

Dear Mr. Fitton:

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In an effort to speed up this records search or reduce the amount of fees that may be incurred (which is described more fully below), you may wish to narrow the scope of your request to limit the number of potentially responsive records. Or you may agree to an alternative time frame for processing. Or you may wish to await the completion of our records searches and, if records are located, discuss these options. I regret the necessity of this delay, but I assure you that your request will be processed as soon as possible. If you have any questions, or wish to discuss a reformulation or an alternative time frame for the processing of your request, you may contact Laurie Day, the analyst handling this request, or me at (202) 514-3642.

Assuming there are responsive records regarding these subjects in the Office of the Deputy Attorney General, to facilitate the handling of your request, I am now considering your fee category and fee waiver requests. In your letter you suggest that Judicial Watch should be considered "a representative of the news media" for fee purposes. In support of this position, you state that Judicial Watch allows "reporters into its offices to inspect the documents," issues press releases, appears on radio and television programs, and maintains a web site. However, the Office of Management and Budget fee guidelines define a "representative of the news media" as "any person actively gathering news for an entity that is organized and operated to publish or

broadcast news to the public." See Uniform Freedom of Information Act Fee Schedule and Guidelines, 52 Fed. Reg. 10,012, 10,015, 10,018 (1987); see also 28 C.F.R. § 16.11(b)(6) (1998). Furthermore, the D.C. Circuit Court of Appeals has indicated that "middlemen" who request records for use by others are not considered members of the media. National Security Archive v. United States Dep't of Defense, 880 F.2d 1381, 1387 (D.C. Cir. 1989). Therefore, based upon the information that you have provided, I have determined that Judicial Watch does not qualify as a representative of the news media under 5 U.S.C. § 552(a)(4)(A)(ii)(II).

You also request a blanket fee waiver regarding disclosure of records pertaining to FALN and Los Macheteros. As you are aware, the fact that you were granted a fee waiver with respect to disclosure of records pertaining to a different subject matter is not dispositive in this case. See, e.g., National Sec. Archive, 880 F.2d at 1388 (dictum) (fee waiver in one instance does not require same treatment in future); Judicial Watch, Inc. v. United States Dep't of Justice, No. 97-2089, slip op. at 14 (D.D.C. July 14, 1998); Dollinger v. United States Postal Serv., No. 95-CV-61-74T, slip op. at 7-8 (W.D.N.Y. Aug. 24, 1995) (agency not bound by previous decision on fee waiver for similar request from same requester). A request for a fee waiver must be considered on a case-by-case basis. Wilson v. CIA, No. 91-0087, slip op. at 3 (D.D.C. Nov. 5, 1991) (agency must necessarily evaluate each fee waiver request on its own merits).

The FOIA's fee waiver standard speaks to whether or not disclosure of the requested information would be in the public interest. 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).

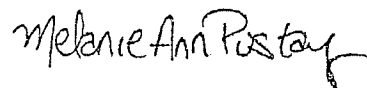
Your blanket assertion that "release of the requested information . . . [will] promot[e] confidence in an honest democratic system, and further[] the integrity of the American national government by deterring and/or sanctioning corrupt activities" is not a sufficient basis for me to grant a fee waiver. See, e.g., American Fed'n of Gov't Employees v. United States Dep't of Commerce, 632 F. Supp. 1272, 1278 (D.D.C. 1986) (allegations of malfeasance too ephemeral to warrant waiver of search fees without further evidence that informative material will be found), aff'd on other grounds, 907 F.2d 203 (D.C. Cir. 1990); Fazzini v. United States Dep't of Justice, No. 90 C 3303, slip op. at 11 (N.D. Ill. May 2, 1991) (allegations of government coverup, unsupported by objective evidence, do not create legitimate public interest for purposes of fee waiver); Conklin v. United States, 654 F. Supp. 1104, 1006 (D. Colo. 1987) (finding mere allegations of wrongdoing do not justify fee waiver). Your statements that Judicial Watch "will ensure rapid dissemination of information," Oglesby v. United States Dep't of the Army, 920 F.2d 57, 66 n.11 (D.C. Cir. 1990); Judicial Watch, No. 97-2089, slip op. at 13 (D.D.C. July 14, 1998), or that it is a "non-profit organization" do not provide sufficient grounds for my granting a fee waiver. Cf. OMB Fee Guidelines, 52 Fed. Reg. at 10,013 (non-profit status does not preclude finding of commercial use); Critical Mass Energy Project v. NRC, 830 F.2d 278, 281 (D.C. Cir. 1987) (entity's "non-profit status is not determinative" of commercial status).

A fee waiver is granted when it is determined that the substantive content of the disclosable portions of the records requested is likely to contribute significantly to public understanding of government operations or activities. 28 C.F.R. § 16.11(k)(2)(ii). If I determine in the course of disclosing records concerning FALN and Los Macheteros that the disclosed information warrants a partial or full fee waiver because release would "primarily benefit the public," I will grant such a waiver at that time. (Any monies that you have provided would be refunded in accordance with the amount of fee waiver that is granted.)

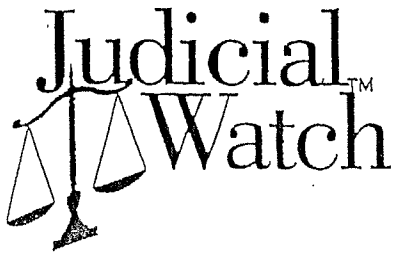
At this point, without a fee waiver being granted, Department of Justice regulations permit us to provide Judicial Watch, which we have determined to be an "other" requester pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(III), with two hours of search time per component searched and 100 pages of records without your incurring search or duplication charges. See 28 C.F.R. § 16.11(d). In order for us to process your request beyond that point, you must indicate your willingness to pay the fees incurred. You may choose a particular amount or merely indicate your willingness to pay. ~~Should you choose the latter, you will only be obligated to pay \$25.00, pursuant to~~ 28 C.F.R. § 16.3(c). If we determine at some point that the search and duplication fees are likely to exceed \$25.00, we will so notify you of the estimated amount and once you indicate a willingness to pay such amount, continue the processing of your request. See 28 C.F.R. § 16.11(e).

If you disagree with my determination that Judicial Watch is not a "representative of the news media" or my denial of your fee waiver request, you may administratively appeal from either of these determinations 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 of the date of this letter. Both the letter and the envelope should be marked "Freedom of Information Act Appeal."

Sincerely,



Melanie Ann Pustay
Deputy Director



September 2, 1999

VIA CERTIFIED MAIL AND FAX (202-514-1009)

Melanie Ann Pustay
Deputy Director, Office of Information and Privacy
Suite 570, Flag Building
Department of Justice
Washington, DC 20530-0001

Re: Freedom of Information Act Request.

Dear Ms. Pustay:

Pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. 552, and its regulations, we hereby request from the Deputy Attorney General, all correspondence, memoranda, documents, records, lists of names, applications, diskettes, letters, expense logs and receipts, calendar or diary logs, facsimile logs, telephone records, tape recordings, videoc recordings, notes, photographs, electronic mail, and other documents and things, that refer or relate to the following in any way:

1. Commutation of sentences of prisoners belonging to or associated with the *Fuerzas Armadas de Liberacion Nacional* (FALN) [Armed Forces of National Liberation]
2. Commutation of sentences of prisoners belonging to or associated with the *Los Macheteros*
3. Clemency reports regarding President Clinton's sentencing commutation of convicted FALN and/or *Los Macheteros* members.
4. Political factors involved in the above-mentioned clemency, including but not limited to the Senate aspirations of Hillary Rodham Clinton.

Thank you for your expected cooperation in responding timely to our request, which should be within 20 working days as required under the Act, because time is of the essence.

Pursuant to the FOIA, if any portions of the requested documents are claimed to be privileged, those portions which are not claimed to be privileged should be provided to the undersigned. This should be done prior to the conclusion of the statutory 20-day period for response. In addition, under the FOIA there is an absolute requirement to produce those segregable portions of documents which are not claimed to be privileged, as well as a list ("Vaughn Index") that indicates by date, author, general subject matter, and claims of privilege(s) those documents, or portions thereof, which have been withheld or not provided. Vaughn v. Rosen, 484 F.2d 820 (D.C. Cir 1973), cert. denied, 415 U.S. 977 (1974); Iglesias v. Central Intelligence Agency, 525 F. Supp. 547 (D.C. 1981); see generally LaRocca v. State Farm Mut. Auto. Ins. Co., 47 F.R.D. 278 (W.D. Pa. 1985).

We note that President Clinton instructed agencies in October, 1993, to ensure compliance with both the spirit as well as the letter of the Act. *See* President Clinton's FOIA Memorandum, U.S. Department of Justice, FOIA Update, Summer/Fall 1993, at 3. In addition, Attorney General Reno issued a FOIA Memorandum in October, 1993, which *inter alia* states "I strongly encourage your FOIA officers to make 'discretionary disclosures' whenever possible under the Act," and orders "a presumption of disclosure." *See* Attorney General Reno's FOIA Memorandum, U.S. Department of Justice, FOIA Update, Spring 1994, at 1-2.

Judicial Watch also respectfully requests a blanket fee waiver on behalf of the public interest, to which it is entitled under 5 U.S.C. § 552(a)(4)(A); *see also, Larson v. Central Intelligence Agency*, 843 F.2d 1482, 1483 (D.C.Cir. 1988); *National Sec. Archive v. U.S. Dept. of Defense*, 880 F.2d 1381, 1385-87 (D.C.Cir. 1989); *see also, Judicial Watch, Inc. v. United States Dep't. of Commerce*, No. 95-0133 (D.D.C. May 16, 1995) (order granting Judicial Watch, Inc.'s request for fee waiver with regard to all responsive documents in proceeding).

Judicial Watch, Inc. is a non-profit, non-partisan, tax-exempt 501(c)(3) organization which as a public interest law firm specializes in deterring, monitoring, uncovering, and addressing public corruption in government. Judicial Watch has and will hold Republicans, Democrats, Independents, and others equally accountable to ethical and legal standards for honest and open government.

The requester has no commercial purpose as a 501(c)(3) non-profit organization organized exclusively to improve the ethical and legal standards in government, accountability of government officials to the rule of law, and public understanding of government operations.

Judicial Watch will also use the requested material to promote accountable government as a representative of the news media and the public in accordance with a second category provided under 5 U.S.C. § 552(a)(4)(A)(ii)(II) and *National Sec. Archive v. U.S. Dept. of Defense*, 880 F.2d 1381, 1385-87 (D.C.Cir. 1989), by disseminating relevant information which may be uncovered. Information will benefit the public by identifying areas for future reform as well as deterring future abuses that could otherwise proliferate without scrutiny.

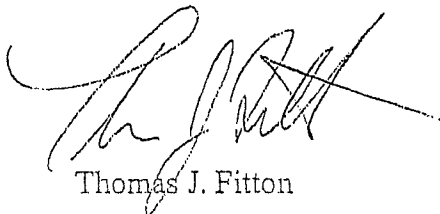
Judicial Watch has several mechanisms which will ensure rapid dissemination of information brought to light by this request. First, when Judicial Watch obtains responsive documents, it allows reporters into its offices to inspect the documents. These reporters then write stories based on information contained in the documents, which in appear nationwide in newspapers and magazines. Second, Judicial Watch produces several press releases per week which are "blast faxed" to hundreds of radio and television stations and newspapers around the country. Third, Judicial Watch maintains a website on which people can view copies of, among other things, press releases, responsive documents, deposition transcripts, and court opinions. Finally, Larry Klayman, the Chairman of Judicial Watch, and other Judicial Watch employees frequently appear on nationally broadcast radio and television programs. All of these facts demonstrate Judicial Watch's ability to disseminate information to the public and educate the public about the operations and activities of its government.

The subject of this request is information concerning the operations and activities of the government. Past experience of Judicial Watch demonstrates the success of Judicial Watch in uncovering important facts about government activities, integrity and operations, of broad concern to the public. Thus, Judicial Watch's request is likely to "contribute significantly" to the public's understanding of the operations of their government, satisfying the requirements of FOIA fee waiver provisions. Judicial Watch's capabilities and effectiveness are a matter of public record.

Immediate release of the requested information is in the public interest, including for promoting confidence in an honest democratic system, and furthering the integrity of the American national government by deterring and/or sanctioning corrupt activities. The failure to do so will likely result in the further compromise of important interests of the American people.

Sincerely,

JUDICIAL WATCH, INC.

A handwritten signature in black ink, appearing to read 'Tom J. Fitton', written in a cursive style.

Thomas J. Fitton

President

EXHIBIT 4



September 2, 1999

VIA CERTIFIED MAIL AND FAX (202-324-3367)

John M. Kelso, Jr.
Chief, FOIA/PA Section
Federal Bureau of Investigation
Room 6958, J. Edgar Hoover Building
Department of Justice
Washington, DC 20535

Re: Freedom of Information Act Request.

Dear Mr. Kelso:

Pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. 552, and its regulations, we hereby request from the Federal Bureau of Investigation, all correspondence, memoranda, documents, records, lists of names, applications, diskettes, letters, expense logs and receipts, calendar or diary logs, facsimile logs, telephone records, tape recordings, video recordings, notes, photographs, electronic mail, and other documents and things, that refer or relate to the following in any way:

1. Commutation of sentences of prisoners belonging to or associated with the *Fuerzas Armadas de Liberacion Nacional* (FALN) [Armed Forces of National Liberation]
2. Commutation of sentences of prisoners belonging to or associated with the *Los Macheteros*
3. Clemency reports regarding President Clinton's sentencing commutation of convicted FALN and/or *Los Macheteros* members.

4. Political factors involved in the above-mentioned clemency, including but not limited to the Senate aspirations of Hillary Rodham Clinton.

Thank you for your expected cooperation in responding timely to our request, which should be within 20 working days as required under the Act, because time is of the essence.

Pursuant to the FOIA, if any portions of the requested documents are claimed to be privileged, those portions which are not claimed to be privileged should be provided to the undersigned. This should be done prior to the conclusion of the statutory 20-day period for response. In addition, under the FOIA there is an absolute requirement to produce those segregable portions of documents which are not claimed to be privileged, as well as a list ("Vaughn Index") that indicates by date, author, general subject matter, and claims of privilege(s) those documents, or portions thereof, which have been withheld or not provided. Vaughn v. Rosen, 484 F.2d 820 (D.C. Cir 1973), cert. denied, 415 U.S. 977 (1974); Iglesias v. Central Intelligence Agency, 525 F. Supp. 547 (D.C. 1981); see generally LaRocca v. State Farm Mut. Auto. Ins. Co., 47 F.R.D. 278 (W.D. Pa. 1985).

We note that President Clinton instructed agencies in October, 1993, to ensure compliance with both the spirit as well as the letter of the Act. *See* President Clinton's FOIA Memorandum, U.S. Department of Justice, FOIA Update, Summer/Fall 1993, at 3. In addition, Attorney General Reno issued a FOIA Memorandum in October, 1993, which *inter alia* states "I strongly encourage your FOIA officers to make 'discretionary disclosures' whenever possible under the Act," and orders "a presumption of disclosure." *See* Attorney General Reno's FOIA Memorandum, U.S. Department of Justice, FOIA Update, Spring 1994, at 1-2.

Judicial Watch also respectfully requests a blanket fee waiver on behalf of the public interest, to which it is entitled under 5 U.S.C. § 552(a)(4)(A); *see also, Larson v. Central Intelligence Agency*, 843 F.2d 1482, 1483 (D.C.Cir. 1988); *National Sec. Archive v. U.S. Dept. of Defense*, 880 F.2d 1381, 1385-87 (D.C.Cir. 1989); *see also, Judicial Watch, Inc. v. United States Dep't. of Commerce*,

No. 95-0133 (D.D.C. May 16, 1995) (order granting Judicial Watch, Inc.'s request for fee waiver with regard to all responsive documents in proceeding).

Judicial Watch, Inc. is a non-profit, non-partisan, tax-exempt 501(c)(3) organization which as a public interest law firm specializes in deterring, monitoring, uncovering, and addressing public corruption in government. Judicial Watch has and will hold Republicans, Democrats, Independents, and others equally accountable to ethical and legal standards for honest and open government.

The requester has no commercial purpose as a 501(c)(3) non-profit organization organized exclusively to improve the ethical and legal standards in government, accountability of government officials to the rule of law, and public understanding of government operations.

Judicial Watch will also use the requested material to promote accountable government as a representative of the news media and the public in accordance with a second category provided under 5 U.S.C. § 552(a)(4)(A)(ii)(II) and *National Sec. Archive v. U.S. Dept. of Defense*, 880 F.2d 1381, 1385-87 (D.C.Cir. 1989), by disseminating relevant information which may be uncovered. Information will benefit the public by identifying areas for future reform as well as deterring future abuses that could otherwise proliferate without scrutiny.

Judicial Watch has several mechanisms which will ensure rapid dissemination of information brought to light by this request. First, when Judicial Watch obtains responsive documents, it allows reporters into its offices to inspect the documents. These reporters then write stories based on information contained in the documents, which in appear nationwide in newspapers and magazines. Second, Judicial Watch produces several press releases per week which are "blast faxed" to hundreds of radio and television stations and newspapers around the country. Third, Judicial Watch maintains a website on which people can view copies of, among other things, press releases, responsive documents, deposition transcripts, and court opinions. Finally, Larry Klayman, the Chairman of Judicial Watch, and other Judicial Watch employees frequently appear on nationally broadcast radio and television programs. All of these facts demonstrate Judicial Watch's ability to

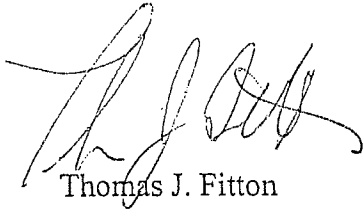
disseminate information to the public and educate the public about the operations and activities of its government.

The subject of this request is information concerning the operations and activities of the government. Past experience of Judicial Watch demonstrates the success of Judicial Watch in uncovering important facts about government activities, integrity and operations, of broad concern to the public. Thus, Judicial Watch's request is likely to "contribute significantly" to the public's understanding of the operations of their government, satisfying the requirements of FOIA fee waiver provisions. Judicial Watch's capabilities and effectiveness are a matter of public record.

Immediate release of the requested information is in the public interest, including for promoting confidence in an honest democratic system, and furthering the integrity of the American national government by deterring and/or sanctioning corrupt activities. The failure to do so will likely result in the further compromise of important interests of the American people.

Sincerely,

JUDICIAL WATCH, INC.



Thomas J. Fitton

President

EXHIBIT 5



September 2, 1999

VIA CERTIFIED MAIL AND FAX (202-616-6478)

Ms. Suzanne Little
Assistant Director, FOIA/Privacy Unit
Executive Office for United States Attorneys
Room 7100, 600 E Street, NW
Department of Justice
Washington, DC 20530-0001

Re: Freedom of Information Act Request.

Dear Ms. Little:

Pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. 552, and its regulations, we hereby request from the United States Attorneys in the states of Illinois and Connecticut, all correspondence, memoranda, documents, records, lists of names, applications, diskettes, letters, expense logs and receipts, calendar or diary logs, facsimile logs, telephone records, tape recordings, video recordings, notes, photographs, electronic mail, and other documents and things, that refer or relate to the following in any way:

1. Commutation of sentences of prisoners belonging to or associated with the *Fuerzas Armadas de Liberacion Nacional* (FALN) [Armed Forces of National Liberation]
2. Commutation of sentences of prisoners belonging to or associated with the *Los Macheteros*
3. Clemency reports regarding President Clinton's sentencing commutation of convicted FALN and/or *Los Macheteros* members.

4. Political factors involved in the above-mentioned clemency, including but not limited to the Senate aspirations of Hillary Rodham Clinton.

Thank you for your expected cooperation in responding timely to our request, which should be within 20 working days as required under the Act, because time is of the essence.

Pursuant to the FOIA, if any portions of the requested documents are claimed to be privileged, those portions which are not claimed to be privileged should be provided to the undersigned. This should be done prior to the conclusion of the statutory 20-day period for response. In addition, under the FOIA there is an absolute requirement to produce those segregable portions of documents which are not claimed to be privileged, as well as a list ("Vaughn Index") that indicates by date, author, general subject matter, and claims of privilege(s) those documents, or portions thereof, which have been withheld or not provided. Vaughn v. Rosen, 484 F.2d 820 (D.C. Cir 1973), cert. denied, 415 U.S. 977 (1974); Iglesias v. Central Intelligence Agency, 525 F. Supp. 547 (D.C. 1981); see generally LaRocca v. State Farm Mut. Auto. Ins. Co., 47 F.R.D. 278 (W.D. Pa. 1985).

We note that President Clinton instructed agencies in October, 1993, to ensure compliance with both the spirit as well as the letter of the Act. *See* President Clinton's FOIA Memorandum, U.S. Department of Justice, FOIA Update, Summer/Fall 1993, at 3. In addition, Attorney General Reno issued a FOIA Memorandum in October, 1993, which *inter alia* states "I strongly encourage your FOIA officers to make 'discretionary disclosures' whenever possible under the Act," and orders "a presumption of disclosure." *See* Attorney General Reno's FOIA Memorandum, U.S. Department of Justice, FOIA Update, Spring 1994, at 1-2.

Judicial Watch also respectfully requests a blanket fee waiver on behalf of the public interest, to which it is entitled under 5 U.S.C. § 552(a)(4)(A); *see also, Larson v. Central Intelligence Agency*, 843 F.2d 1482, 1483 (D.C.Cir. 1988); *National Sec. Archive v. U.S. Dept. of Defense*, 880 F.2d 1381, 1385-87 (D.C.Cir. 1989); *see also, Judicial Watch, Inc. v. United States Dep't. of Commerce*,

No. 95-0133 (D.D.C. May 16, 1995) (order granting Judicial Watch, Inc.'s request for fee waiver with regard to all responsive documents in proceeding).

Judicial Watch, Inc. is a non-profit, non-partisan, tax-exempt 501(c)(3) organization which as a public interest law firm specializes in deterring, monitoring, uncovering, and addressing public corruption in government. Judicial Watch has and will hold Republicans, Democrats, Independents, and others equally accountable to ethical and legal standards for honest and open government.

The requester has no commercial purpose as a 501(c)(3) non-profit organization organized exclusively to improve the ethical and legal standards in government, accountability of government officials to the rule of law, and public understanding of government operations.

Judicial Watch will also use the requested material to promote accountable government as a representative of the news media and the public in accordance with a second category provided under 5 U.S.C. § 552(a)(4)(A)(ii)(II) and *National Sec. Archive v. U.S. Dept. of Defense*, 880 F.2d 1381, 1385-87 (D.C.Cir. 1989), by disseminating relevant information which may be uncovered. Information will benefit the public by identifying areas for future reform as well as deterring future abuses that could otherwise proliferate without scrutiny.

Judicial Watch has several mechanisms which will ensure rapid dissemination of information brought to light by this request. First, when Judicial Watch obtains responsive documents, it allows reporters into its offices to inspect the documents. These reporters then write stories based on information contained in the documents, which in appear nationwide in newspapers and magazines. Second, Judicial Watch produces several press releases per week which are "blast faxed" to hundreds of radio and television stations and newspapers around the country. Third, Judicial Watch maintains a website on which people can view copies of, among other things, press releases, responsive documents, deposition transcripts, and court opinions. Finally, Larry Klayman, the Chairman of Judicial Watch, and other Judicial Watch employees frequently appear on nationally broadcast radio and television programs. All of these facts demonstrate Judicial Watch's ability to

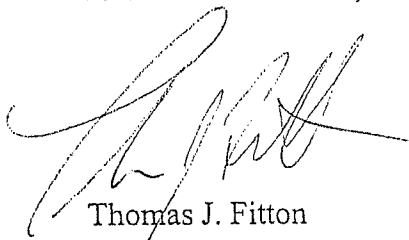
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Immediate release of the requested information is in the public interest, including for promoting confidence in an honest democratic system, and furthering the integrity of the American national government by deterring and/or sanctioning corrupt activities. The failure to do so will likely result in the further compromise of important interests of the American people.

Sincerely,

JUDICIAL WATCH, INC.



Thomas J. Fitton
President