



Judicial Watch

Because no one is above the law!

2 June 2009

VIA CERTIFIED MAIL & DELIVERY RECEIPT EMAIL

Department of Defense
Office of Freedom of information
1155 Defense Pentagon
Washington, DC 20301-1155
Art. No.: (7009 0080 0002 2431 1780)

Secretary of the Air Force
Headquarters Air Force/ ICIO (FOIA)
1000 Air Force Pentagon
Washington, DC 20330-1000
haf.foia@pentagon.af.mil
Art. No.: (7009 0080 0002 2431 1803)

Secret Service
Communications Center (FOI/PA)
245 Murray Lane
Building T-5
Washington, D.C. 20223
Art. No.: (7009 0080 0002 2431 1810)

Re: Freedom of Information Act Request

Dear Sir/Madam:

Pursuant to the provisions of the Freedom of Information Act (FOIA), 5 U.S.C. § 552, Judicial Watch, Inc. hereby requests that the Department of Defense/ Air Force/ Secret Service produce any and all agency records concerning the following subjects within twenty (20) business days:

1. Any and all records concerning the cost of President and First Lady Obama's trip to New York on May 30, 2009. Records should include, but are not limited to, bills, receipts, invoices, vouchers, accounting documents, cost authorization(s) and approval(s) documents, correspondence, and other cost records for motorcades, aircraft (including aircraft for aides, press and security detail -- and helicopters from JFK to Manhattan), as well as costs associated with closing any streets/ sidewalks/ businesses, etc., to the public.

Time Frame: May 2009 - Present

We call your attention to President Obama's January 21, 2009 Memorandum concerning the Freedom of Information Act, in which he states:

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All agencies should adopt a presumption in favor of disclosure, in order to renew their commitment to the principles embodied in FOIA...The presumption of disclosure should be applied to all decisions involving FOIA.¹

President Obama adds that "The Freedom of Information Act should be administered with a clear presumption: In the case of doubt, openness prevails." Nevertheless, if any responsive record or portion thereof is claimed to be exempt from production under FOIA, please provide sufficient identifying information with respect to each allegedly exempt record or portion thereof to allow us to assess the propriety of the claimed exemption. *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973), cert. denied, 415 U.S. 977 (1974). In addition, any reasonably segregable portion of a responsive record must be provided, after redaction of any allegedly exempt material. 5 U.S.C. § 552(b).

For purpose of this request, the term "record" shall mean: (1) any written, printed, or typed material of any kind, including without limitation all correspondence, memoranda, notes, messages, letters, cards, telegrams, teletypes, facsimiles, papers, forms, records, telephone messages, diaries, schedules, calendars, chronological data, minutes, books, reports, charts, lists, ledgers, invoices, worksheets, receipts, returns, computer printouts, printed matter, prospectuses, statements, checks, statistics, surveys, affidavits, contracts, agreements, transcripts, magazine or newspaper articles, or press releases; (2) any electronically, magnetically, or mechanically stored material of any kind, including without limitation all electronic mail or e-mail, meaning any electronically transmitted text or graphic communication created upon and transmitted or received by any computer or other electronic device, and all materials stored on compact disk, computer disk, diskette, hard drive, server, or tape; (3) any audio, aural, visual, or video records, recordings, or representations of any kind, including without limitation all cassette tapes, compact disks, digital video disks, microfiche, microfilm, motion pictures, pictures, photographs, or videotapes; (4) any graphic materials and data compilations from which information can be obtained; (5) any materials using other means of preserving thought or expression; and (6) any tangible things from which data or information can be obtained, processed, recorded, or transcribed. The term "record" also shall mean any drafts, alterations, amendments, changes, or modifications of or to any of the foregoing.

Judicial Watch also hereby requests a waiver of both search and duplication fees pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II) and 5 U.S.C. § 552(a)(4)(A)(iii).

¹ President Barack Obama, "Memorandum for the Heads of Executive Departments and Agencies, Subject: Freedom of Information Act," January 21, 2009; <http://www.whitehouse.gov/the_press_office/FreedomofInformationAct>

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Judicial Watch is entitled to a waiver of search fees under 5 U.S.C. § 552(a)(4)(A)(ii)(II) because it is a member of the news media. In accordance with the statutory designation for a media group, Judicial Watch gathers information of potential interest, uses its editorial skills to create a distinct work, and distributes it to the public. Judicial Watch gathers information using Freedom of Information Act requests, state open records law requests, government contacts, interviews, Internet based research, book based research, and community tips. Judicial Watch distributes its distinct work using its editorial skills in its monthly newsletter *The Verdict*, its weekly e-mail publication *Weekly Update*, its blog *Corruption Chronicles*, and special reports. *The Verdict* maintains a subscription of over 120,000 and Judicial Watch's website has logged over 500,000 page views just between January 2009 and April 2009 with 2,000 unique visitors per day. *Weekly Update* reaches 25,000 people per week

The statute also notes that government may consider an organization's past publication record. When considering Judicial Watch's past publication record, its previous media status is also relevant. Judicial Watch has been recognized as a member of the media in past FOIA litigation; See *Judicial Watch, Inc. v. U.S. Department of Justice*, 133 F. Supp.2d 52 (D.D.C. 2000); and, *Judicial Watch, Inc. v. Dep't of Defense*, 2006 U.S. Dist. LEXIS 44003, *1 (D.D.C. June 28, 2006). Furthermore, Judicial Watch has consistently been recognized as a member of the news media in other FOIA requests. Within the last 6 months, Judicial Watch was designated as media by the Department of State on 27 March 2009 (200901038), Department of Homeland Security on 20 November 2008 (DHS/OS/PRIV 09-49), Federal Housing Finance Agency on 8 December 2008 (FOIA 2009-31), and Department of the Treasury on 6 January 2009 (2008-12-019).

In addition to meeting and exceeding the statutory requirements as a media organization, Judicial Watch's mission and peer recognition further qualify it for the media category. The Pew Research Center's Project for Excellence in Journalism provides that "the central purpose of journalism is to provide citizens with accurate and reliable information they need to function in a free society.... serving as watchdog and offering voice to the voiceless."¹ Judicial Watch's mission is consistent with this definition ("promotes transparency, accountability and integrity in government, politics and the law.") Furthermore, *The Hill* has recognized Judicial Watch as one of the top watchdog organizations in the country.² In addition to the *Hill's* recognition, Judicial Watch has also been awarded press credentials and membership in journalism organizations.

Judicial Watch also is entitled to a complete waiver of both search fees and duplication fees pursuant to 5 U.S.C. § 552(a)(4)(A)(iii). Under this provision, records:

² <http://thehill.com/business--lobby/lobby-league-31-watchdogs-2005-02-16.html>

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shall be furnished without any charge or at a charge reduced below the fees established under clause (ii) if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of government and is not primarily in the commercial interest of the requester. 5 U.S.C. § 552(a)(4)(A)(iii).

Judicial Watch is a 501(c)(3), not-for-profit, educational organization, and, by definition, it has no commercial purpose. Judicial Watch exists to promote transparency, accountability and integrity in government, politics and the law. Its loyalty is to the truth and to the public. It uses litigation to access the truth and its publications to inform the public.

The particular records requested herein are sought as part of Judicial Watch's efforts to report on politicians' use of taxpayer money. During a period where unemployment is abnormally high, the average American is struggling to pay bills, corporations are filing for bankruptcy, and the deficit is exorbitant; the President has chosen to use taxpayer money on a lavish date and then refused to disclose the cost to reporters. This is not the first instance in which the media and public have questioned a politician's use of government resources for personal advantage. Disturbing the average American is the fact that the President promised change, but as funding is getting cut from schools, he spends an unknown amount of public money on a date. Clearly, the costs of the date relate to government activities as the Air Force was most likely involved for transportation, the Secret Service was used for security, and taxpayer money funded it. Records will contribute to understanding the extent to which government resources were used. Meanwhile, disclosure will contribute to the public being able to hold their elected officials accountable. Disclosure will certainly be significant as the White House has refused to disclose the costs associated with the date and so thus will be new information that enhances the public understanding. The records will appeal to a broad public base as the public is fascinated by President Obama and yet financially struggling. As programs are being cut that affect many Americans and many people are cutting back on their own Saturday nights out, the public is entitled to know how much public money the President spent on his date. Once Judicial Watch obtains the requested records, it intends to analyze them and disseminate the results of its analysis, as well as the records themselves, as an article in one of its publications.

In addition, if records are not produced within twenty (20) business days, Judicial Watch is entitled to a complete waiver of search and duplication fees under the OPEN Government Act of 2007, Section 6(b).

Given these circumstances, Judicial Watch is entitled to a public interest fee waiver of both search costs and duplication costs. Nonetheless, in the event our request for a waiver of search and/or duplication costs is denied, Judicial Watch is willing to pay up to \$350.00 in search and/or duplication costs. Judicial Watch requests that it be

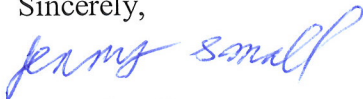
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contacted before any such costs are incurred, in order to prioritize search and duplication efforts.

In an effort to facilitate record production within the statutory time limit, Judicial Watch is willing to accept documents in electronic format (e.g. e-mail, .pdfs). When necessary, Judicial Watch will also accept the “rolling production” of documents.

If you do not understand this request or any portion thereof, or if you feel you require clarification of this request or any portion thereof, please contact us immediately at 202-646-5181 or jsmall@judicialwatch.org. We look forward to receiving the requested documents and a waiver of both search and duplication costs within twenty (20) business days. Thank you for your cooperation.

Sincerely,



Jenny Small
Judicial Watch, Inc.
Researcher

ⁱ “Principles of Journalism” Pew Research Center’s Project for Excellence in Journalism.
<<http://www.journalism.org/resources/principles>>.