

FOIA Resource

From: Gillum, Jack <JGillum@ap.org>
Sent: Tuesday, October 08, 2013 11:18 AM
To: FOIA Resource
Subject: AP FOIA request

Nuclear Regulatory Commission
Mail Stop T5-F09
Washington, DC 20555-0001

FOIA/PA REQUEST
Case No.: 2014-005
Date Rec'd: 10/8/13
Specialist: McCellan
Related Case:

RE: Freedom of Information Act request
Expedited processing requested

Oct. 8, 2013

Dear Sir or Madam:

Pursuant to the Freedom of Information Act, 5 U.S.C. § 552, I request access to and copies of:

- All emails sent to and from agency staff during the last five years in which “SWAT”, “special response team”, “armed response team” or “SRT” are in the subject and/or body of the email.
- All contracts with private security companies used to carry out agency functions, including those that authorize the use of lethal force and/or collect past-due debts.
- Digital copies of any database, spreadsheet or documents detailing instances in which lethal force was used during the past five years.
- Copies of policies governing the use of SWAT, special response, rapid response or armed response teams as part of your enforcement efforts, including guidelines detailing when such teams may be deployed.

These records pertain to how the government may have used its authority to use deadly force on American citizens^[1]. In turn, the records are a matter of extreme public importance such that disclosure would not apply to any exemption sufficient to warrant withholding or unnecessary delay under the FOIA. In fact, the only relevant public interest at stake here is the extent to which disclosure of the information sought would “let citizens know ‘what their government is up to.’” See *U.S. Dep’t of Def. v. Fed. Labor Relations Auth.*, 510 U.S. 487, 497 (1994) (quoting *DOJ v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749 (1989)).

Because I am a member of the news media who is primarily engaged in disseminating information, I have an “urgency to inform” the public about federal government activity in accordance with § 552 (a)(6)(E)(v). Such a request for expedited processing meets established criteria for demonstrating a “compelling need”: the records concern a matter of current exigency to the American public; that their delay would compromise a significant recognized interest; and that they concern federal government activity. See generally *Al-Fayed v. C.I.A.*, 254 F.3d.300, 310 (D.C. Cir. 2001).

Public interest in the prompt disclosure of the records is high, as it would shed light on the operations of government, particularly whether or not the Executive Branch engaged in misconduct when conducting possible raids on citizens. Any reasonable person, in light of press reports^[2], may thus conclude that “government impropriety might have occurred.” *Nat’l Archives & Records Admin. v. Favish*, 541 U.S. 157, 172 (2004). Prompt release of records would therefore contribute significantly to a recognized, national interest: how the government protects the safety and civility liberties of American citizens.

Because this is a request by the news media for records in the public interest, I ask that you waive any search fees in accordance with § 552(a)(4)(A)(ii)(II)^[3]. If the fee for retrieving or reproducing these records will exceed \$25, please notify me before filling this request. I can be reached at (202) 641-9448 or by electronic mail at jgillum@ap.org.

As you know, agencies must redact only what is necessary to protect exempt information and must explain the basis for any redactions. See *Georgacarakos v. F.B.I.*, 908 F. Supp. 2d 176, 182 (D.D.C. 2012). As well, please provide documents to me on a rolling basis, rather than waiting for my entire request to be processed before releasing documents.

As a reminder, the President has directed that the FOIA “be administered with a clear presumption: In the face of doubt, openness prevails.” Memorandum for the Heads of Executive Dep’ts and Agencies, 74 Fed. Reg. 15, 4683 (Jan. 26, 2009), emphasis added. That view is unambiguous and consistent with Supreme Court precedent espousing “a general philosophy of full agency disclosure” under the FOIA. *Dep’t of the Air Force v. Rose*, 425 U.S. 352, 360-61 (1976).

The Act, in § 552(a)(6), grants your office no more than twenty working days in which to respond to this request. See also *Oglesby v. U.S. Dep’t of Army*, 920 F.2d 57, 65 (D.C. Cir. 1990) (“Congress adopted the time limit provision in the FOIA in order to ‘contribute to the fuller and faster release of information, which is the basic objective of the Act.’” (quoting H.R. Rep. No. 93-876, March 5, 1974, reprinted (1974) U.S. Code Cong. & Ad. News 6267 at 6271)). Agencies therefore “should make it a priority to respond in a timely manner. Timely disclosure of information is an essential component of transparency.” Attorney General’s Memorandum for Heads of Executive Dep’ts and Agencies Concerning the Freedom of Info. Act, at 3 (Mar. 19, 2009), available from <http://www.justice.gov/ag/foia-memo-march2009.pdf>.

I affirm the information provided above, including information applicable to my request for expedited processing, is true and correct to the best of my knowledge and belief.

Thank you for your assistance. I look forward to your prompt reply.

With regards,

Jack Gillum
The Associated Press

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^[1] Radley Balko, RISE OF THE WARRIOR COP, *The Wall Street Journal*, Aug. 7, 2013.

^[2] *Id.*

^[3] As amended by the OPEN Government Act of 2007, Pub. L. No. 110-175, 121 Stat. 2524.