

Exhibit 2



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February 24, 2023

Via FedEx, Email and eFOIA Portal

Arla Witte-Simpson
FOIA Public Liaison
Executive Office for U.S. Attorneys
Department of Justice
175 N Street NE, Suite 5.400
Washington, DC 20530
usaeo.foia.requests@usdoj.gov

Michael G. Seidel, Section Chief
Record/Information Dissemination Section
Records Management Division
Federal Bureau of Investigation
200 Constitution Drive
Winchester, VA 22602
<https://efoia.fbi.gov>

Re: EXPEDITED FOIA Request for January 6, 2021 Capitol Surveillance Video

Dear Ms. Witte-Simpson and Mr. Seidel:

Pursuant to the Freedom of Information Act, 5 U.S.C. § 552 *et seq.*, (“FOIA”) and on behalf of 12 news organizations (the “Press Coalition”),¹ we request copies of all closed-circuit camera footage recorded on January 6, 2021, inside the United States Capitol and on its surrounding outside grounds, on Capitol surveillance cameras (the “CCTV videos”).

No exemption to the FOIA would justify withholding any portion of these records. Indeed, during the February 20, 2023 episode of “Tucker Carlson Tonight,” Fox News host Tucker Carlson announced that he and his colleagues have received “unfettered” access to “44,000 hours” of Capitol surveillance footage and will soon begin reporting on that footage. The Speaker of the House of Representatives, Kevin McCarthy, provided the footage to Mr. Carlson. *See, e.g.,* Annie Grayer et al., *McCarthy gives Tucker Carlson access to January 6 Capitol security footage, sources say*, CNN (Feb. 21, 2023), <https://www.cnn.com/2023/02/20/politics/kevin-mccarthy-tucker-carlson-january-6-footage/index.html>. Therefore, we expect that your offices will provide access to these records promptly, without any claims of exemptions and without redactions.

¹ The Press Coalition consists of Advance Publications, Inc., American Broadcasting Companies, Inc. d/b/a ABC News, The Associated Press, Axios Media Inc., Cable News Network, Inc., CBS Broadcasting Inc. o/b/o CBS News, The E.W. Scripps Company, Gannett Co., Inc., Los Angeles Times Communications LLC, The New York Times Company, POLITICO LLC, and Pro Publica, Inc.

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Moreover, as the Speaker provided access to these public records in his official capacity, following the conclusion of the House Select Committee to Investigate the January 6th Attack on the United States Capitol's review of these materials, the United States has "officially" disclosed these records. For this additional reason, the Government may not withhold them under the FOIA. *See Wolf v. CIA*, 473 F.3d 370, 378 (D.C. Cir. 2007).

As you may know, the Honorable Beryl A. Howell, Chief Judge of the U.S. District Court for the District of Columbia, has previously granted the Press Coalition's application for access to Capitol CCTV footage, noting that "the areas of the Capitol in [those] videos are generally open to visitors taking public tours," and that any asserted security risk was "undercut by the already extensive release of [CCTV] footage from the Capitol." *United States v. Torrens*, 560 F. Supp. 3d 283, 294 (D.D.C. 2021). Since the Chief Judge issued that decision in September 2021, the Court has, without incident, released hundreds more CCTV videos to the press and public. *Video Evidence Shown in the Capitol Insurrection Criminal Cases*, ProPublica (July 27, 2021), <https://projects.propublica.org/jan-6-video-evidence/> (compiling videos provided to the Press Coalition by orders of the Court).

The Press Coalition requests expedited processing of this request pursuant to 5 U.S.C. § 552(a)(6)(E)(i). There is an urgent need for these CCTV videos – which are of the highest public interest – to be viewed by the Press Coalition given that the newsworthiness of the records is fleeting, and the public should have an opportunity to read and view reporting about the CCTV videos from different news organizations contemporaneously. The public benefits from different perspectives on these important issues and should not have to rely on a single news outlet for information about the CCTV videos. I certify that this information in support of our request for expediting is true and correct to the best of my knowledge. *See Al-Fayed v. CIA*, 254 F.3d 300, 310-11 (D.C. Cir. 2001); *Bloomberg, L.P. v. FDA*, 500 F. Supp. 2d 371, 378 (S.D.N.Y. 2007).

The Press Coalition qualifies for news media fee status under 5 U.S.C. § 552(a)(4)(A)(ii)(II) and may not be charged for search and review fees. Because this footage will be used by the Press Coalition for the preparation of news reporting that will be broadly disseminated to the general public, it will contribute significantly to public understanding of the operations or activities of the government and is not primarily in the Press Coalition's commercial interest. As such, please grant a fee waiver for any remaining fees incurred, and please notify me before incurring over \$500 in fees.

We look forward to your prompt response regarding expedition of this request within 10 days, and in any event by no later than March 6, 2023. 5 U.S.C. § 552(a)(6)(E)(ii). We hope that your agencies will not force the Press Coalition to file a lawsuit to secure the release of these public records. Please be advised, however, that if you should refuse to

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produce these videos for any reason, the Press Coalition has authorized us to file a lawsuit immediately in the U.S. District Court for the District of Columbia.

If you would like to discuss this request or the logistics of accessing the CCTV video, please do not hesitate to contact me at tobinc@ballardspahr.com.

Sincerely,



Charles D. Tobin
Maxwell S. Mishkin
Lauren Russell

cc: Honorable Merrick B. Garland, Attorney General of the United States