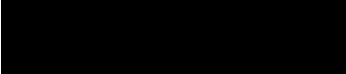


Adam Klasfeld  
Reporter

  
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Melanie Ann Pustay  
Department of Justice  
Director, Office of Information Policy  
1425 New York Avenue, NW  
Washington, DC 20530-0001

June 06, 2019

### **PUBLIC RECORDS REQUEST APPEAL**

Dear Ms. Pustay:

This is an appeal under the Freedom of Information Act, 5 U.S.C. § 552 ("FOIA").

On May 06, 2019, I made a request to the FBI for all records, including but not limited to emails, memos, text messages, chat logs, and electronic messaging apps such as WhatsApp, Confide, Signal, G-chat, Slack, iMessage and Facebook messenger, that mention Trump Towers Istanbul. On May 16, 2019, the FBI refused to recognize me as a member of the news media for the purposes of assessing fees. Copies of my request and the denial are enclosed.

The timing in which I received the FBI's letter was remarkable.

Hours before appearing in my journalistic capacity on MSNBC for a segment of Lawrence O'Donnell's show "The Last Word" (on May 22, 2019), I received a stunning letter from David Hardy, the FBI's section chief for record/information dissemination. Mr. Hardy rejected my designation as a member of the news media and treated my FOIA request (No. 1436346-000) as submitted by a member of the general public. That evening, millions of viewers from one of the country's major networks heard me discuss my live courtroom reporting of President Donald Trump's federal lawsuit seeking to block congressional subpoenas of his Deutsche Bank and Capital One financial records. Mr. O'Donnell introduced me on his show, accurately, as a reporter.

Indeed, I have been a full-time journalist for more than a decade. I have long held in-house press credentials for the Southern District of New York, one of the most influential federal courts in the United States. The Department of Defense has recognized me as a reporter in granting me credentials to cover military commission proceedings at Guantanamo Bay, where I reported on the pretrial proceedings of the accused 9/11 plotters. The United Nations has credentialed me as a reporter, a status that facilitated my coverage of multiple General Assembly debates. In covering the 2016 presidential debate at Hofstra University, the hosts of that debate granted me press credentials. My income taxes that have helped fund government agencies for more than a decade (presumably, including the FBI) have reported that my primary source of income derives from my journalism. I have reported from datelines in four countries and interviewed three sitting heads of state.

In filing my FOIA request, I submitted this abridged (and by no means comprehensive) synopsis of my work: "My reporting has appeared in Mother Jones, the Village Voice, City Limits and a national legal newswire, where I currently work as a full-time federal court correspondent. In the broadcasting realm, I also have been interviewed about my journalism by MSNBC, NPR, CTV Canadian Television, and Reason, and my reporting has been cited by the New York Times, the Washington Post, NBC Universal, the Associated Press, Deutsche Welle, and affiliates of CNN, the BBC and many other outlets."

The FBI's refusal to recognize me as a member of the news media in light of all this is unfathomable, insulting and illegal. My extensive resume in print, digital, radio and broadcast journalism more than satisfies the permissive standard established by *Cause of Action v. FTC* (799 F.3d 1108, D.C. Cir. Aug. 25, 2015): "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."

Should the Department of Justice continue to be confused as to my status as a member of the news media, the agency can consult the countless press inquiries from me to which its spokespeople have responded for over a decade. The Justice Department and its subcomponents regularly recognize my standing as a member of the news media, except apparently for this aberrant determination for assessing fees.

Unlike the President of the United States, I have never refused to recognize the FBI as a legitimate agency of a legitimate government. (I have never, for example, put scare quotes over the FBI's umbrella agency as President @realDonaldTrump has done repeatedly, such as on April 2, 2018: "So sad that the Department of 'Justice' and the FBI are slow walking, or even not giving, the unredacted documents requested by Congress. An embarrassment to our country!") As a full-time journalist and citizen of this country, I insist upon—and have legal authority to demand—being afforded the same courtesy of having the legitimacy of my work recognized by my public servants.

I appeal the FBI's unlawful determination, and should the Justice Department wrongfully endorse the initial refusal, I intend to fight this determination as long as is necessary to correct this obstinance.

Thank you in advance for your assistance.

Very truly yours,

Adam Klasfeld