

Exhibit D

eFOIA Request Received

efoia@subscriptions.fbi.gov <efoia@subscriptions.fbi.gov>
To: scott.anderson@lawfareblog.com

Mon, Aug 19, 2019 at 1:24 PM

Organization Representative Information

Organization Name

Prefix

First Name

Middle Name

Last Name

Suffix

Email

Phone

Location

Domestic Address

Address Line 1

Address Line 2

City Washington

State District of Columbia

Postal 20033

Agreement to Pay

How you will pay I am requesting a fee waiver for my request and have reviewed the FOIA reference guide. If my fee waiver is denied, I am willing to pay additional fees and will enter that maximum amount in the box below.

Allow up to \$ 200

Proof Of Affiliation for Fee Waiver

Waiver Explanation

FOIA provides that any fees associated with a request are waived 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 the government and is not primarily in the commercial interest of the requester." 5 U.S.C. Â§ 552(a)(4)(A)(iii).

We are the editor-in-chief and senior editor for Lawfare, an online publication dedicated to informing public understanding on operations and activities of the government. Lawfare is published by The Lawfare Institute, a 501(c)(3) not-for-profit educational organization, and in cooperation with The Brookings Institution, a 501(c)(3) nonprofit public policy organization.

This request is submitted in connection with Lawfare's mission to publish information that is likely to contribute significantly to the public understanding of federal agency activities related to law and national security"specifically, the extent to which FBI personnel are facing inappropriate political pressures. A former senior FBI

official who was the subject of disciplinary action due to certain private communications recently accused the FBI and Justice Department of "treat[ing] [him] more harshly than they would have treated similar communications because the content of [his] communications was critical of President Trump." This request is intended to help determine whether this allegation is true and FBI personnel may be under inappropriate political pressures as a result.

In addition to satisfying the requirements for a waiver of fees associated with the search and processing of records, we are entitled to a waiver of all fees except "reasonable standard charges for document duplication." 5 U.S.C. Â§ 552(a)(4)(A)(ii)(II). Federal law mandates that fees be limited to document duplication costs for any requester that qualifies as "a representative of the news media." Id. Lawfare is a "news media organization[]" 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." Nat'l Sec. Archive v. Dep't of Defense, 880 F.2d 1381, 1387 (D.C. Cir. 1989). We intend to give the public access to documents transmitted via FOIA on our website, <https://www.lawfareblog.com>, and to provide information about and analysis of those documents as appropriate.

Documentation Files

Non-Individual FOIA Request

Request Information

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. Â§ 552, we hereby request that your office produce the following records within 20 business days:

1. Any records in the FBI's "Case Management System" for disciplinary measures,* or any successor system, indicating that an FBI employee was accused of misconduct relating to positive statements he or she had made about Barack H. Obama.

This request is for documents dating from November 20, 2011,

to the present.

We are not requesting the names or any other personally identifiable information about the subjects of these notices and do not object if such information is redacted. We do not believe this request falls within the scope of any existing FOIA exemptions. See Department of the Air Force v. Rose, 425 U.S. 352 (1976).

We also request any records describing the processing of this request, including records sufficient to identify search terms used and locations and custodians searched and any tracking sheets used to track the processing of this request. If your agency uses FOIA questionnaires or certifications completed by individual custodians or components to determine whether they possess responsive materials or to describe how they conducted searches, we also request any such records prepared in connection with the processing of this request.

If you make a determination that any responsive record, or any segment within a record is exempt from disclosure, we ask that you provide an index of those records at the time you transmit all other responsive records. In the index, please include a description of the record and the reason for exclusion with respect to each individual exempt record or exempt portion of a record, as provided by Vaughn v. Rosen, 484 F.2d 820 (D.C. Cir. 1973), cert. denied, 415 U.S. 977 (1974). When you deem a portion of a record exempt, we ask that the remainder of the record to be provided, as required by 5 U.S.C. §§ 552(a)(8)(A)(ii) & 552(b).

* In a May 2009 report entitled "Review of the Federal Bureau of Investigation's Disciplinary System" (available at <https://oig.justice.gov/reports/FBI/e0902/final.pdf>), the Justice Department's Office of the Inspector General described the FBI's use of the Case Management System as follows: "The FBI implemented the Case Management System to track allegations, investigations, adjudications, and appeals in a database in November 2004. One section of the Case Management System tracks precedent decisions for each offense." (p. 28)

Expedite

Expedite Reason

FOIA provides for expedited processing where a requestor demonstrates a compelling need. 5 U.S.C. Â§ 552(a)(6)(E)(i). It defines "compelling need" to include situations where a request [is] made by a person primarily engaged in disseminating information and there exists an urgency to inform the public concerning actual or alleged Federal Government activity. Id. Â§ 552(a)(6)(E)(v).

Lawfare is an organization primarily engaged in the dissemination of information. If FBI personnel are being disproportionately punished due to their political opinions, then this risks compromising a range of important law enforcement and national security investigations. There is an urgent need to inform the public whether these allegations are accurate so that they may encourage their political leaders to correct this behavior and avoid further compromising any ongoing investigations.

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Please be advised that efoia@subscriptions.fbi.gov is a no-reply email address. Questions regarding your FOIA request may be directed to foipaquestions@fbi.gov. If you have received a FOIPA request number, please include this in all correspondence concerning your request. Please note eFOIPA requests are processed in the order that they are received. If you have not received a FOIPA request number, your request is in the process of being opened at which time it will be assigned a FOIPA request number and correspondence will be forthcoming.

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Upon receipt of your FOIPA request number, you may check the status of your FOIPA request on the FBI's electronic FOIA Library (The Vault) on the FBI's public website, <http://vault.fbi.gov> by clicking on the "Check Status of Your FOI/PA Request" link. Status updates are performed on a weekly basis. If you receive a comment that your FOIPA request number was not located in the database, please check back at a later date.