

Louisiana

Capital

Assistance

Center

A Non-Profit Law Office

March 18, 2016

Freedom of Information Act/Privacy Act Section
Office of the General Counsel, Room 841
Federal Bureau of Prisons
320 First Street NW
Washington, D.C. 20534
Fax: (202) 307-2995

Via Facsimile

This is a Capital Habeas Case; Expedited Processing Requested

Dear Sir/Madam:

EXPEDITED REVIEW: Our office has been appointed to represent Edgar Garcia (Reg. No. 28132-177) in federal habeas proceedings. This request is made in connection with a criminal justice purpose.¹ This request is time sensitive because it relates to current pending federal court proceedings. I am requesting information for professional use on behalf of our client.

Pursuant to the Freedom of Information Act (5 U.S.C. § 552), I request access to, and copies of any and all documentation related to:

All verdict forms, final judgments, settlement agreements, claim payment Forms and consent decrees in lawsuits or claims from 2000 through 2010 brought against United States Penitentiary Beaumont, United States Penitentiary Lee, United States Penitentiary Atlanta, and United States Penitentiary Marion that alleged, in whole or in part, inadequate safety or security resulting in injuries sustained by inmates and prison personnel.

As provided by law, please respond to my request within 20 working days. If my request is denied in whole or in part, please provide a detailed justification for withholding the records. Lastly, I request any segregable portions that are not exempt to be disclosed.

I additionally request a waiver of all costs pursuant to 5 U.S.C. §552(a)(4)(A)(iii) (“Documents shall be furnished without any charge . . . 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.”).

¹ Expedited processing of requested records is being sought pursuant to 5 U.S.C. §552(a)(6)(E)(v) (“that a failure to obtain requested records on an expedited basis under this paragraph could reasonably be expected to pose an imminent threat to the life or physical safety of an individual”). Because Mr. Garcia faces criminal prosecution and the death penalty, which very directly threatens his life and physical safety, an exceptional and urgent need exists which justifies expedited processing for the records being sought. *Cleaver v. Kelley*, 427 F. Supp. 80, 81 (D.D.C. 1976) (court orders expedited processing of records for plaintiff facing multiple criminal charges carrying possible death penalty in state court).

The public interest requires confidence in the judicial system that operates in the public's name and on its behalf. *Cleaver v. Kelley*, 427 F. Supp. 80 (D.C. Dist. 1976) (“The public interest lies in assuring a complete and thorough adjudication of criminal matters. Such an interest outweighs that of those seeking material in the pursuit of less fundamental rights.”) Mr. Garcia is currently facing the death penalty. To ensure public confidence in the disposition of Mr. Garcia’s case and of the judicial process as a whole, it is necessary to examine all aspects of Mr. Garcia’s history. Disclosure in this case meets the statutory criteria, and a fee waiver would fulfill Congress’s legislative intent in amending FOIA. See *Judicial Watch*, 326 F.3d at 1312 (“Congress amended FOIA to ensure that it be ‘liberally construed in favor of waivers for noncommercial requesters.’”). Because we are a non-profit office that serves indigent clients at the rate set by the courts and/or the Louisiana Board of Public Defenders, charges for reproduction of records are usually waived or reduced in accordance with the public interest. If you rule otherwise and the fees exceed \$50, please contact me of the charge before you fulfill this request.

Please forward the records to my attention to 636 Baronne Street, New Orleans, LA 70113. **If feasible, our office would prefer an electronic copy of the records in pdf or tiff format on a CD/DVD.** If this format is not available please forward the records by regular U.S. Mail delivery or by “Express Saver” for which we can provide our Fed Ex account number. If you have any questions regarding my request please do not hesitate to contact me directly at (504) 558-9867 extension 553 or by e-mail at arose@thejusticecenter.org.

Thank you for your kind assistance in this request and I look forward to hearing from your office.

Sincerely,



Aubrey A. Rose
Staff Investigator