

THE
ROGER
BALDWIN
FOUNDATION
OF ACLU,
INC.



ROGER BALDWIN FOUNDATION
OF ACLU, INC.

SUITE 2300
180 NORTH MICHIGAN AVENUE
CHICAGO, ILLINOIS 60601-1287
(312) 201-9740
FAX (312) 201-9760
WWW.ACLU-IL.ORG

December 2, 2004

Federal Bureau of Investigation
Record Information/Dissemination Section
Service Request Unit, Room 6359
935 Pennsylvania Avenue, N.W.
Washington, D.C. 20535

Federal Bureau of Investigation
Chicago Field Office
219 South Dearborn Street, Room 905
Chicago, Illinois 60604

Re: REQUEST UNDER FREEDOM OF INFORMATION ACT /
Expedited Processing Requested

Attention:

This letter constitutes a request by the American Civil Liberties Union of Illinois and the Roger Baldwin Foundation of ACLU, Inc. (collectively, "ACLU of Illinois") under the Freedom of Information Act, 5 U.S.C. § 552 ("FOIA").

I. The request for information

The ACLU of Illinois seeks disclosure of any records¹ maintained by the Federal Bureau of Investigation ("FBI"), the National Joint Terrorism Task Force ("JTTF"), and/or any local JTTF in the State of Illinois, relating or referring to the following:

1. the creation of the National JTTF;
2. the creation of all state and local JTTFs;

¹ The term "records" as used herein includes, but is not limited to, all records or communications preserved in electronic or written form, including but not limited to correspondence, documents, data, videotapes, audio tapes, faxes, files, guidance, guidelines, evaluations, instructions, analyses, memoranda, agreements, notes, orders, policies, procedures, protocols, reports, rules, technical manuals, technical specifications, training manuals, studies, and/or computer files and databases.

3. the general purpose and mission of the NJTTF;
4. the general purpose and mission of all state and local JTTFs;
5. the relationship between the NJTTF and all state and local JTTFs;
6. the funding of the NJTTF;
7. the funding of all state and local JTTFs;
8. the names and job descriptions of all management level employees of the NJTTF;
9. the name and job description of the special agent in charge of each state and local JTTF;
10. the names and job descriptions of all NJTTF employees primarily responsible for coordinating the work of special agents in charge of state and local JTTFs;
11. the names of all agencies participating in the NJTTF;
12. the names of all agencies participating in any state and local JTTF;
13. the role of each agency participating in the NJTTF;
14. the role of each agency participating in any state and local JTTF;
15. the names and titles of all state and local law enforcement officials participating in the NJTTF;
16. the names and titles of all state and local law enforcement officials participating in state and local JTTFs;
17. the names and titles of all state and local law enforcement officials who have been deputized as special federal agents in the NJTTF and/or any state or local JTTF;
18. the policies, procedures and/or practices of the NJTTF and all state and local JTTFs for identifying "potential threat elements" (PTEs);
19. the policies, procedures and/or practices of the NJTTF and all state and local JTTFs for monitoring, surveillance, questioning, interrogation, and/or investigation of individuals, organizations, or groups identified as PTEs;
20. the policies, procedures and/or practices of the NJTTF and all state and local JTTFs for monitoring, surveillance, questioning, interrogation, and/or investigation of students, faculty, or staff on college or university campuses;

21. the policies, procedures, and/or practices of the NJTTF and all state and local JTTFs for monitoring, surveillance, questioning, interrogation, and/or investigation of individuals based in whole or in part on one or more of the following factors: national origin; race and/or ethnicity; religious affiliation; organizational membership; political views or affiliation; and/or participation in protest activities or demonstrations;
22. the policies, procedures, and/or practices of the NJTTF and all state and local JTTFs for monitoring, surveillance, questioning, interrogation, and/or investigation of organizations or groups based in whole or in part on one or more of the following factors: political views; participation in demonstrations or protest activities; the national origin, race, ethnicity, or religious affiliation of the organization's or group's staff, members, and/or constituents;
23. the policies, procedures, and/or practices of the NJTTF and all state and local JTTFs for using undercover agents to infiltrate organizations or groups based in whole or in part on one or more of the following factors: political views; participation in demonstrations or protest activities; the national origin, race, ethnicity, or religious affiliation of the organization's or group's staff, members, and/or constituents;
24. the criteria used by the NJTTF and all state and local JTTFs to initiate monitoring, surveillance, questioning, interrogation, investigation, and/or infiltration, as described in paragraphs 19-23 above;
25. the techniques used by the NJTTF and all state and local JTTFs for monitoring, surveillance, questioning, interrogation, investigation, and/or infiltration, as described in paragraphs 19-23 above;
26. the policies, procedures, and/or practices of the NJTTF and all state and local JTTFs for gathering information through monitoring, surveillance, questioning, interrogation, investigation, and/or infiltration, as described in paragraphs 19-23 above;
27. the types of information gathered by the NJTTF and all state and local JTTFs through monitoring, surveillance, questioning, interrogation, investigation, and/or infiltration, as described in paragraphs 19-23 above;
28. the policies, procedures, and/or practices of the NJTTF and all state and local JTTFs governing the maintenance and/or storage of information described in paragraph 26 above;
29. the policies, procedures, and/or practices of the NJTTF and all state and local JTTFs for analyzing and using information described in paragraph 26 above;
30. the policies, procedures and/or practices of the NJTTF and all state and local JTTFs for sharing information described in paragraph 26 above;

31. the policies, procedures, and/or practices of the NJTTF and all state and local JTTFs for cross-referencing information described in paragraph 26 above with information about other individuals, organizations, or groups;
32. the policies, procedures, and/or practices of the NJTTF and all state and local JTTFs for cross-referencing information described in paragraph 26 above with information in any database;
33. the policies, procedures, and/or practices used to suspend and/or terminate monitoring, surveillance, questioning, interrogation, investigation, and/or infiltration by the NJTTF and all state and local JTTFs, as described in paragraphs 19-23 above;
34. the policies, procedures, and/or practices of the NJTTF and all state and local JTTFs governing the destruction of information described in paragraph 26 above;
35. the policies, procedures, and/or practices of the NJTTF and all state and local JTTFs for protecting the privacy of individuals who are monitored, surveilled, questioned, interrogated, investigated, and/or infiltrated, as described in paragraphs 19-23 above;
36. the constitutionality, legality, and/or propriety of monitoring, surveillance, questioning, interrogation, investigation, and/or infiltration by the NJTTF and all state and local JTTFs, as described in paragraphs 19-23 above;
37. any actual or potential violations of, or deviations from, any policy, procedure or practice related to monitoring, surveillance, questioning, interrogation, investigation, and/or infiltration by the NJTTF and all state and local JTTFs, as described in paragraphs 19-23 above;
38. any investigation, inquiry, or disciplinary proceeding initiated in response to any actual or potential violations of, or deviations from, any policy, procedure or practice related to monitoring, surveillance, questioning, interrogation, investigation, and/or infiltration by the NJTTF and all state and local JTTFs, as described in paragraphs 19-23 above;
39. the number of college or university campuses on which the NJTTF has conducted monitoring, questioning, interrogation, and/or surveillance, as described in paragraph 20 above, for each year starting with year 2000;
40. the number of college or university campuses on which each state or local JTTF has conducted monitoring, questioning, interrogation, and/or surveillance, as described in paragraph 20 above, for each year starting with year 2000.

II. The request for waiver of processing fees

The ACLU of Illinois requests a waiver of search and review fees pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II), which states that “fees shall be limited to reasonable standard charges for

document duplication when records are not sought for commercial use and the request is made by . . . a representative of the news media . . .” See also 28 C.F.R. §§ 16.11(c)(1)(i) & (d)(1).

The ACLU of Illinois meets the definition of “a representative of the news media” because it is “an entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn raw materials into a distinct work, and distributes that work to an audience.” *National Security Archive v. Department of Defense*, 880 F.2d 1381, 1387 (D.C. Cir. 1989). Dissemination of information to the public is a critical and substantial component of the mission and work of the ACLU of Illinois. Specifically:

1. The ACLU of Illinois four times per year publishes a printed newsletter regarding numerous current civil liberties issues and distributes it by U.S. mail to roughly 21,000 people.
2. The ACLU of Illinois twice per month publishes an electronic newsletter regarding numerous current civil liberties issues and distributes it by e-mail to roughly 3,000 people.
3. The ACLU of Illinois dozens of times per year publishes an “Action Alert” newsletter regarding pending local, state, and federal legislation and distributes it by e-mail to roughly 3,500 people.
4. The ACLU of Illinois publishes other educational and information materials (including “Know Your Rights” documents and a host of materials created by the National ACLU) that are broadly disseminated to the public. Such material is widely available to everyone, including individuals, tax-exempt organizations, not-for-profit groups, law students and faculty, for no cost or for a nominal fee through its public education department. Such materials are often disseminated to relevant groups across the State of Illinois that then further distribute them to their own members or to other parties.
5. The ACLU of Illinois maintains and updates a web site: <http://www.aclu-il.org/>. This website includes substantial information about ACLU of Illinois cases and various subject areas related to civil liberties.
6. The ACLU of Illinois regularly communicates with the public regarding a host of civil liberties issues through national and local print and broadcast media, including through press conferences, press releases, interviews, and opinion editorial pieces. Indeed, the ACLU of Illinois receives hundreds of press calls per year. For example, the ACLU of Illinois has been quoted in the Illinois media regarding: (a) FBI “ambush interviews” of prominent Chicago-area Muslims and Arabs before and during the Gulf War of 1991; (b) modification during the late 1990s of a consent decree limiting political surveillance by the Chicago Police Department; (c) FBI detentions and interrogations of Muslim and Arab men in Chicago after September 11, 2001; (d) Chicago Police Department surveillance of organizations opposed to globalization before and during the Trans-Atlantic Business Dialogue meeting in Chicago in 2002; and (e) the civil liberties implications of the Patriot Act.

7. The ACLU of Illinois staff regularly speak regarding a host of civil liberties issues at public education events across the State of Illinois, including before business groups, houses of worship, and students of all ages. For example, ACLU of Illinois staff on three occasions publicly debated representatives of the local U.S. Attorney's Office regarding the new surveillance powers granted by the Patriot Act to federal law enforcement officials, and on one additional occasion did so with a representative of the FBI's Chicago Field Office. Also, ACLU of Illinois staff twice publicly debated a representative of the City of Chicago regarding the new surveillance powers granted to the Chicago Police Department through modification of a consent decree. In 2003, ACLU of Illinois staff participated in more than 200 public speaking events, including scores of events relating to post-9/11 civil liberties issues.

Depending on the results of this Request, the ACLU of Illinois plans to disseminate information gathered by the Request to the public through the kinds of publications and channels listed above. The ACLU of Illinois is therefore a "news media entity." See *Electronic Privacy Information Ctr. v. Department of Defense*, 241 F. Supp. 2d 5, 10-15 (D.D.C. 2003) (finding that a non-profit public interest group that disseminated an electronic newsletter and published books was a "representative of the media" and thus entitled to waiver of processing fees).

Finally, disclosure is not in the ACLU's commercial interest. The ACLU is a "non-profit, non-partisan, public interest organization." See *Judicial Watch, Inc. v. Rossotti*, 326 F.3d 1309, 1310 (D.C. Cir. 2003). In addition, the ACLU will not charge anyone a fee for any information disclosed as a result of this Request.

III. The request for waiver of duplication costs

The ACLU of Illinois also requests a fee waiver for duplication costs pursuant to 5 U.S.C. §§ 552(a)(4)(A)(ii)(II) and (iii), which states that documents shall be furnished without any charge or at a reduced charge if disclosure is in the public interest because it is (1) "likely to contribute significantly to public understanding of the operations or activities of the government," and (2) "is not primarily in the commercial interest of the requester."

Here, disclosure meets both elements of this test. This Request aims at furthering public understanding of government conduct, to wit, the government's policies, practices, and procedures with regard to the monitoring and surveillance of organizations on the basis of national origin, racial and/or ethnic background, religious affiliation, organizational membership, political views or affiliation, or participation in protest activities or demonstrations. This type of government activity concretely affects many individuals and groups and implicates basic privacy, free speech, and associational rights protected by the Constitution. This topic is one of widespread public concern at this unique historical moment, as illustrated by the wide array of newspaper articles referenced in Section V(B) below.

Moreover, disclosure of the requested information will aid public understanding of the implications of the Department of Justice's recent decision to relax guidelines that previously restricted the FBI's ability to spy on organizations without a threshold showing of suspected

criminal activity. These restrictions were created in response to the Hoover-era FBI's scandalous spying on politically active individuals and organizations, despite the complete lack of evidence that such individuals and organizations had been involved in any unlawful behavior.

Understanding the current scope of the FBI's surveillance and infiltration of law-abiding organizations is, therefore, crucial to the public's interest in understanding the consequences of the Department of Justice's important change in policy.

As a nonprofit organization, and as a "representative of the news media" as discussed above in Section III, the ACLU of Illinois is well-situated to disseminate information it gains from this request to the general public as well as to immigrant, religious, politically active, and other targeted communities, and to groups that protect constitutional rights. Also, as set fully forth in Section III above, the records requested are not sought for commercial use.

Finally, 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.'").

IV. The request for expedited processing

Expedited processing of this Request is appropriate on two independent grounds.

A. Expedition for "urgency to inform the public"

Expedited processing is warranted here because there is "an urgency to inform the public about an actual or alleged federal government activity" by organizations "primarily engaged in disseminating information." 28 C.F.R. § 16.5(d)(1)(ii). *See also* 5 U.S.C. § 552(a)(6)(E)(v)(II). The records in question involve the FBI's and JTTFs' actual and alleged activities with regard to the monitoring and surveillance of groups throughout the State of Illinois. There is an urgency to inform the public about such activities because it may bear upon the public's exercise of a number of constitutional rights. In addition, the request deals with potential disparate treatment of groups based on categories such as religion and nationality, and such potential unequal treatment is a matter necessitating immediate attention. There is particularly intense concern among potentially targeted groups about the actual or alleged federal government activity addressed by this request. Also, there is great public concern regarding the FBI's use of new surveillance powers granted to the FBI by statutory and regulatory changes after September 11, 2001. All of these public concerns are illustrated by the news coverage detailed below in Section V(B). Finally, the ACLU is "primarily engaged in disseminating information," as discussed above in Section III. *See ACLU v. DOJ*, 321 F. Supp. 2d 24, 29 n.5 (D.D.C. 2004) (holding that the Electronic Privacy Information Center is primarily engaged in disseminating information and entitled to expedited processing).

B. Expedition for "widespread and exceptional media interest"

Expedited processing is independently appropriate here because the information sought relates to "a matter of widespread and exceptional media interest in which there exist possible questions about the government's integrity which affect public confidence." 28 C.F.R. § 16.5(d)(1)(iv).

The potential targeting of individuals and groups by the federal government on the basis of group membership, religion, political protest, nationality and other similar categorizations raises many questions about the government's integrity which affect public confidence in a profound way. Indeed, the instant Request relates to possible violation of First, Fourth, Fifth, and Fourteenth Amendment rights. The government's mistreatment of persons based on religion and nationality is a critical issue with a long and troubling history. Questions about the government's integrity in these areas affect the public's confidence in the government's ability to protect all of its citizens, and in the law enforcement and legal systems. See *Edmonds v. FBI*, 2002 WL 32539613, *3 (D.D.C. Dec. 3, 2002) (granting expedited processing on this basis of a FOIA request by an FBI whistle-blower for FBI documents about herself); *ACLU*, 321 F. Supp. 2d at 28-32 & n.11 (granting expedited processing on this basis for a FOIA request regarding the number of times the U.S. Department of Justice requested permission to use a surveillance power created by the Patriot Act).

Moreover, the widespread and exceptional media interest in this issue is reflected in the vast quantity of news coverage at both the local and national level. The 32 articles listed immediately following are a small portion of this massive coverage. See Daily Star Staff, *American Arabs Concerned Over FBI's 'October Plan,'* www.dailystar.com.lb, October 6, 2004; David Shepardson, *FBI Agents Hunt for Terror Leads: Agency Combs Muslim Neighborhoods for Help in Preventing Election Day Attack*, The Detroit News, October 1, 2004; Eric Lichtblau, *Subpoena Seeks Records About Delegate Lists on Web*, NY Times, August 30, 2004 at P10; Alex Bradley and John Mayer, *The War at Home: Nationwide Crackdown on Activists*, www.saveourliberties.com, September 2, 2004; Eric Lichtblau, *Protestors at Heart of Debate on Security vs. Civil Rights*, NY Times, August 27, 2004 at A9; Larry Abramson, *FBI Questioning Political Demonstrators*, NPR.org; Susan Greene, *Activists Decry Pre-Convention Security Tactics*, The Denver Post, August 26, 2004 at A-08; Eric Lichtblau, *F.B.I. Goes Knocking for Political Troublemakers*, NY Times, August 16, 2004 at A1; Amy Herder, *Teaching the Silent Treatment*, The Denver Post, August 8, 2004 at C-01; Jayashri Srikantiah, *Few Benefits to Questioning Targeted Groups*, San Francisco Chronicle, August 6, 2004; Camille T. Taiara, *New F.B.I. Witch-Hunt*, San Francisco Bay Guardian, August 4-10, 2004; Kelly Thornton, *F.B.I.'s Home Visits Have Some Muslims Feeling Harassed, Alienated*, Signonsandiego.com, August 4, 2004; Richard Schmitt and Donna Horowitz, *FBI Starts to Question Muslims in U.S. About Possible Attacks*, latimes.com, July 18, 2004; Karen Abbott, *FBI's Queries Rattle Activist*, www.rockymountainnews.com, July 27, 2004; Mary Beth Sheridan, *Interviews of Muslims to Broaden*, www.washingtonpost.com, July 17, 2004; Gregory Meyer, *Activist groups decry cop infiltration*, Chicago Tribune, Feb. 26, 2004; Frank Main, *Police infiltration of protest groups upsets rights activists*, Chicago Sun-Times, Feb. 19, 2004; Jeff Eckhoff and Mark Siebert, *Group Fights Anti-war Inquiry*, The Des Moines Register, February 7, 2004; Jeff Eckhoff and Mark Siebert, *Anti-war Inquiry Unrelated to Terror*, The Des Moines Register, February 10, 2004 at 1A; Monica Davey, *An Antiwar Forum in Iowa Brings Federal Subpoenas*, NY Times, February 10, 2004 at A14; Monica Davey, *Subpoenas on Antiwar Protest Are Dropped*, NY Times, February 11, 2004 at A18; Michelle Goldberg, *A Thousand J. Edgar Hoovers*, www.salon.com, February 12, 2004; Michelle Goldberg, *Outlawing Dissent*, www.salon.com, February 11, 2004; Kerri Ginis, *Peace Fresno Seeks Damages*, The Fresno Bee, February 28, 2004; Eric Lichtblau, *F.B.I. Scrutinizes Antiwar Rallies*, www.nytimes.com, November 23, 2003; *F.B.I. tells offices to count local Muslims and mosques*, N.Y. Times, Jan. 28, 2003; *Seeking terrorist plots, the F.B.I.*

is tracking hundreds of Muslims, N.Y. Times, Oct. 6, 2002; *Echo of F.B.I. abuses in queries on new role*, N.Y. Times, June 13, 2002; *Key Republican blasts new FBI guidelines*, CNN.com, June 1, 2002; *New FBI rules not welcomed by all*, CBSNews.com, May 31, 2002; *FBI domestic spying rules eased*, MSNBC.com, May 31, 2002; *Ashcroft permits F.B.I. to monitor Internet and public activities*, N.Y. Times, May 31, 2002. See also *F.B.I. papers describe role of young Kerry against war*, N.Y. Times, May 6, 2004.

Finally, expedition is proper because this issue has been of concern to lawmakers. See e.g., Eric Lichtblau, *Inquiry into F.B.I. Question Is Sought*, NY Times A16, August 18, 2004.

C. Miscellaneous expedition issues

Pursuant to applicable regulations and statute, the ACLU expects your determination of our request for expedited processing within 10 calendar days and your determination of our request for documents within 20 days. See 28 C.F.R. 16.5(d)(4); 5 U.S.C. § 552(a)(6)(A)(i).

Per 28 C.F.R. § 16.5(d)(2), we submit to the FBI our request for expedited processing on grounds of 28 C.F.R. § 16.5(d)(1)(ii), and we submit to the DOJ Public Affairs Office our request for expedited processing on grounds of 28 C.F.R. § 16.5(d)(1)(iv).

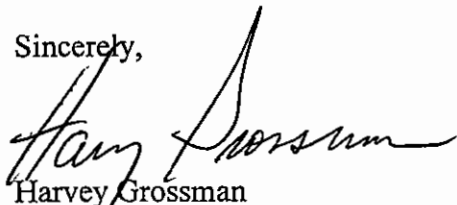
I affirm that the information provided above supporting this request for expedited processing is true and correct to the best of my knowledge and belief. See 28 C.F.R. § 16.5(d)(3).

* * *

If our request is denied in whole or in part, we ask that you justify all deletions by reference to specific exemptions of the FOIA. The ACLU of Illinois expects you to release all segregable portions of otherwise exempt material. The ACLU of Illinois reserves the right to appeal a decision to withhold any information or to deny a waiver of fees.

Thank you for your prompt attention to this matter. Please furnish all applicable records to: Harvey Grossman, Legal Director, The American Civil Liberties Union of Illinois, 180 North Michigan Avenue, Suite 2300, Chicago, Illinois 60601.

Sincerely,



Harvey Grossman
Legal Director
Roger Baldwin Foundation of ACLU, Inc.