

May 18, 2005

Federal Bureau of Investigation
Boise Resident Agency
Wells Fargo Center
877 W. Main St. Suite 404
Boise, ID 83702

Federal Bureau of Investigation
J. Edgar Hoover Building
935 Pennsylvania Ave., NW
Washington D.C., 20535-0001

ATTN:FOIA UNIT

Re: Freedom of Information; Privacy Act; Requests
Expedited Processing Requested
Fee Waiver Requested

This letter constitutes a written request under the Freedom of Information Act, 5 U.S.C. sec. 552 (“FOIA”) and the Privacy Act, 5 U.S.C. sec 552a. This request is made by American Civil Liberties Union of Idaho (“ACLU of Idaho”) on behalf of the Idaho Progressive Student Alliance (IPSA) and two of its’ student officers.

This request seeks records from the Idaho Division of the Federal Bureau of Investigation (“Idaho FBI”) and any other joint task force, inter-agency unit or cooperative entity with which the Idaho FBI participates.

I. The Requesting Organization – Idaho Progressive Student Alliance

The Idaho Progressive Student Alliance is a non-partisan student group, whose focus is social, economic, gender and environmental justice. The IPSA is a properly organized student organization with officers and a faculty advisor. The mission statement reads as follows:

“The Idaho Progressive Student Alliance (IPSA) works for social, economic, and environmental justice acknowledging the interconnections of all issues, political movements, and life. We stand against oppression in all of its forms by giving students the information, training, opportunity, and spirit they need to create a sustainable tomorrow.

The IPSA organizes and participates in education campaigns and conducts an annual training for its members every year. The IPSA, among several organizations, implemented a campaign to support the Immokalee workers' struggle in Florida to improve working conditions. IPSA joined the Immokalee worker boycott of Taco Bell. The campaign captured particular attention in Idaho due to the recent re-naming of the BSU arena to the Taco Bell Arena. During 2005, the Immokalee workers and Taco Bell reached an agreement and the boycott was terminated.

After the boycott was over, officers of the IPSA were singled out for questioning by FBI agents in Idaho. IPSA officers were asked why they supported the Immokalee campaign, whether they planned any "direct action" or other "violent" activity in or around the Taco Bell Arena, as set forth in the section below, the individuals answered that IPSA was a non-violent organization.

II. The Requesting Individuals – Arielle Anderson and Audra Green

This request for documents and information also covers documents referring to or relating to the Arielle Anderson or Audra Green. Ms. Anderson and Ms. Green have each signed a notarized authorization with identifying information attached hereto as Appendix 1.

Ms. Green is the Secretary of the IPSA. On or about March 16, 2004 in the late afternoon Ms. Green received a phone call from Idaho FBI agents who requested permission to come to her house and question her. Ms. Green declined but agreed to meet them at a nearby location. The officers, Agent Hess and one other unknown officer, asked Ms. Green if she were an officer of IPSA and expressed concern that the NCAA tournament at the Taco Bell Arena would be disrupted. The FBI agents then asked Ms. Green about her driving records in other states, including states where she has never been. The agents asked Ms. Green her opinion about the Earth Liberation Front (ELF), the Rainforest Action Network (RAN), and the Animal Liberation Front (ALF) and what the relationship was between the IPSA and those organizations, if any. The FBI agents categorized the actions of another IPSA officer, Arielle Anderson, as "violent" and asked Ms. Green about Ms. Anderson. Since Ms. Green did not live in Idaho during the time period relevant to the agent's question, Ms. Green did not discuss the topic. Throughout the conversation the FBI agents continued to suggest that the IPSA was an organization that was either sympathetic to or related to violent action or other groups who commit violent action. The agents indicated that they were going to talk to all of the IPSA officers. The agents requested Ms. Green's home address, which she declined to give to them. Ms. Green informed the FBI agents that they could reach her by telephone.

Ms. Anderson is the current President of the IPSA. On or about March 17, 2005 Ms. Anderson learned from Ms. Green that the FBI intended to contact all IPSA officers. Because Ms. Anderson was going to leave town, she contacted Agent Hess directly. During this conversation, Ms. Anderson identified herself and informed the agent that the Taco Bell boycott was over and that IPSA was not longer active in the campaign. Agent Hess expressed concern about potential "direct action" at the NCAA tournament because

of her “record.” Ms. Anderson repeated that the IPSA was not active in any campaign against Taco Bell and informed the agent that her prior arrest had nothing to do with the Taco Bell campaign. Agent Hess questioned Ms. Anderson about the details of her sentence for her prior arrest. Agent Hess also asked Ms. Anderson her opinion about the tactics used by ELF and the ALN to which she replied that she did not see the relevancy of that question to the Taco Bell issue. Next Agent Hess asked Ms. Anderson what she thought about the fact that the Idaho Peace Coalition supported ELF and ALF. To this question, Ms. Anderson corrected him that the IPC does not support those groups and does not support direct action in any way. Agent Hess then informed Ms. Anderson that they would follow-up with her the next week. Ms. Anderson indicated the conversation was over and that she would not talk to the agent or anybody from the FBI without an attorney present.

III. Request for Information

1. Requesting organizations: The term “Requesting Organizations” as used in this request for information is defined as all of the organizations identified above of this letter, as well as their employees, members, and persons serving on their boards of directors.
2. Records: The term “records” as used herein includes all records or communications preserved in electronic or written form, including but not limited to correspondence, documents, data, videotapes, audio tapes, photographs, faxes, files, guidance, guidelines, evaluations, instructions, analyses, memoranda, agreements, notes, orders, policies, procedures, protocols, reports, rules, technical manuals, technical specifications, training manuals, or studies.
3. Activities: The term “activities” as used herein includes, but is not limited to, any activities of the Requesting Organizations or Requesting Individuals as described in Section II above, and any advocacy, provision of services, litigation, lobbying, organizing, fundraising, meetings, marches, rallies, protests, conventions, or campaigns, and any media or communications to, from or about the Requestors Organizations or Requesting Individuals in any form (including any oral, written, electronic or online communications, including but not limited to any books, pamphlets, brochures, newsletters, fundraising letters, correspondence, action alerts, e-mail, web communications, discussion groups, or list serves).

The Requesting Organizations and Requesting Individuals identified in this written request seek disclosure of any records created from January, 1998, to the present, that were prepared, received, transmitted, collected and/or maintained by the Idaho

Division of the FBI and/or the Idaho Joint Terrorism Task Force,¹ that relate to or refer to the following:

1. Any records that refer to or relate to any of the Requesting Organizations or to any of the Requesting Individuals, including but not limited to records that document any monitoring, surveillance, observation, questioning, interrogation, investigation, infiltration, and/or collection of information regarding any of the Requesting Organizations or Requesting Individuals or their activities, as defined above.
2. Emails sent to, forwarded to, or otherwise received by the Idaho Division of the FBI, the Idaho Joint Terrorism Task Force or its equivalent entity known by another name, or any of the individual officers assigned to the either of those two organizations, that contain addresses indicating that the emails were originally sent to persons receiving messages from an organized email group or email list that discusses or concerns social or political issues; political activism, including rallies and demonstrations; and/or announcements of activities of organizations engaged in such activity.

This request includes, but is not limited to, emails that contain text indicating that they were originally sent to participants in, or recipients of, any email address associated with the IPSA.

3. Any orders, agreements, or instructions to collect information about, monitor, conduct surveillance of, observe, question, interrogate, investigate, and/or infiltrate any of the Requesting Organizations or Requesting Individuals.
4. Any records relating or referring to how, why or when any of the Requesting Organizations or Requesting Individuals was selected for collection of information, monitoring, surveillance, observation, questioning, interrogation, investigation, and/or infiltration.
5. Any records relating or referring to how collection of information about, monitoring, surveillance, observation, questioning, interrogation, investigation, and/or infiltration of any of the Requesting Organizations or Requesting Individuals was or will be conducted;
6. Any records relating to or referring to the names of any federal, state, or local government agencies that participate or have participated in any

¹ This includes, but is not limited to, records to which officers of the Idaho Division of the FBI and/or the Idaho Joint Terrorism Task Force have access, such as, for example, records that may be accessible from the Idaho Division in electronic form even though the data is maintained in a computer at another location. It also includes records maintained at any of the Resident Agency Offices of the Idaho Division of the FBI or its equivalent entity whether known by another name not specifically used in the body of this request.

monitoring, surveillance, observation, questioning, interrogation, investigation, infiltration, and/or collection of information regarding any of the Requesting Organizations or Requesting Individuals.

7. Any records relating or referring to the specific role of the National Joint Terrorism Task Force or any local Joint Terrorism Task Force in any collection of information about, monitoring, surveillance, observation, questioning, interrogation, investigation and/or infiltration of any of the Requesting Organizations or Requesting Individuals.
8. Any records relating or referring to the specific role of any federal, state, or local government agency participating in any collection of information about, monitoring, surveillance, observation, questioning, interrogation, investigation, and/or infiltration of any of the Requesting Organizations or Requesting Individuals.
9. Any records relating or referring to how records about any of the Requesting Organizations or Requesting Individuals have been, will be, or might be used.
10. Any policies or procedures for analyzing records about any of the Requesting Organizations or Requesting Individuals.
11. Any policies or procedures for cross-referencing records about any of the Requesting Organizations or Requesting Individuals with information contained in any database.
12. Any policies or procedures for cross-referencing records about any of the Requesting Organizations or Requesting Individuals with information about any other organizations or individuals.
13. Any policies or procedures for cross-referencing records about any of the Requesting Organizations or Requesting Individuals with any other information not covered in numbers 11 and 12 above.
14. Any policies or procedures regarding retention of records about any of the Requesting Organizations or Requesting Individuals.
15. Any records referring or relating to the destruction of records about any of the Requesting Organizations or Requesting Individuals, including any policies permitting or prohibiting the destruction of records.
16. Any records referring or relating to how records about any of the Requesting Organizations or Requesting Individuals were destroyed or might be destroyed in the future.

17. Any records referring or relating to the recipient(s) of records about any of the Requesting Organizations or Requesting Individuals.
18. Any policies or procedures in place to protect the privacy of records that refer or relate to the employees, members, and/or board of directors of any of the Requesting Organizations.
19. Any records relating or referring to how, why or when collection of information about, monitoring, surveillance, observation, questioning, interrogation, investigation, and/or infiltration of any of the Requesting Organizations or Requesting Individuals was or will be suspended or terminated.

IV. Waiver of All Costs

The IPISA requests a waiver of all costs, pursuant to the provision of the Freedom of Information Act that provides as follows:

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. 5 U.S.C. §552(a)(4)(A)(iii).

Disclosure in this case meets the statutory criteria, and a fee waiver would fulfill Congress's legislative intent in amending FOIA. See Judicial Watch, Inc. v. Rossotti, 326 F.3d 1309, 1312 (D.C. Cir. 2003) ("Congress amended FOIA to ensure that it be 'liberally construed in favor of waivers for noncommercial requesters.'").

Disclosure of the requested information is in the public interest. This request will further public understanding of government conduct; specifically, the FBI's political surveillance of political views, activities, and associations of groups and individuals who do not constitute any threat and have no connection to terrorism. This type of government activity concretely affects many individuals and groups and implicates basic privacy, free speech, and associational rights protected by the Constitution.

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 monitoring of the expressive activities and associations of groups and organizations that are not involved in serious criminal activity or terrorism 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, the IPSA, will disseminate information it gains from this request to the general public; to the individuals and organizations whose political views and activities subject them to monitoring under the FBI's current practices; and to groups that protect civil liberties and constitutional rights. This will be done through the IPSA annual trainings, posting on the IPSA website and joining any media or educational work that the ACLU of Idaho wishes to conduct in cooperation with the IPSA. The records requested are not sought for commercial use, and the IPSA will disseminate the information disclosed as a result of this FOIA free of cost.

V. Request for Expedited Processing

The ACLU of Idaho requests expedited processing of this request. The Freedom of Information Act and Department of Justice regulations provide for expedited processing in the circumstances presented here. The applicable regulation of the Department of Justice provides in relevant part:

Expedited Processing. (1) Requests and appeals will be taken out of order and given expedited treatment whenever it is determined that they involve:

....

(ii) An urgency to inform the public about an actual or alleged government activity, if made by a person primarily engaged in disseminating information; or

....

(iv) 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)(ii), (iv). The ACLU of Idaho is entitled to expedited processing on the basis of Subsection Subsection (iv).

The information sought in this request 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). This request clearly meets these standards.

There is a widespread and exceptional media interest in the issue of law enforcement agencies collecting information on how persons exercise their First Amendment rights. There has also been widespread and continuing media interest in the question whether other law enforcement agencies around the country, including the FBI, have been engaging in information collection such was done in Denver and the information that came to be known as the "Denver Spy Files." There has been intense

media interest in the question whether law enforcement officials, including the FBI has been targeting individuals and groups for monitoring and surveillance on the basis of religion, political viewpoint, and nationality.

In addition, the subject of this request clearly raises possible questions about the government's integrity which affect public confidence. The potential targeting of individuals and groups on the basis of group membership, religion, political viewpoints or nationality raises many questions about the government's integrity and affects public confidence in a profound way. The government's – and particularly the FBI's – treatment of persons on the basis of their political viewpoints is a critical issue with a long history dating back at least several generations. Questions about the government's integrity in these areas substantially affect the public's confidence in the government's ability to protect all of its citizens. It also affects the public's confidence in law enforcement and the legal system. This issue has been of concern to lawmakers, including three members of the House of Representatives who asked the Justice Department to investigate whether the JTTF was engaging in “systematic political harassment and intimidation of legitimate antiwar protesters.” See, e.g., Eric Lichtblau, Inquiry into F.B.I. Question Is Sought, N.Y. Times August 18, 2004, at A16.

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

If this request is denied in whole or in part, I ask that you justify all deletions by reference to specific exemptions to the governing statute. The ACLU of Idaho expects the release of all non-exempt portions of otherwise exempt material. The ACLU of Idaho reserves its client's rights to appeal a decision to withhold any information or to deny a waiver of fees.

Please furnish all responsive records to: ACLU of Idaho, P.O. Box 1897 Boise, ID 83701. Thank you for your prompt attention to this matter.

I affirm that the information provided supporting the request for expedited processing is true and correct to the best of my knowledge and belief.

Sincerely,

Maria E. Andrade
Cooperating Attorney, ACLU of Idaho