

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

**THE REPORTERS COMMITTEE FOR
FREEDOM OF THE PRESS,**
1156 15th Street NW, Suite 1250
Washington DC, 20005

and

THE ASSOCIATED PRESS,
450 West 33rd Street
New York, NY 10001

Plaintiffs,

v.

FEDERAL BUREAU OF INVESTIGATION,
935 Pennsylvania Avenue, NW
Washington, D.C. 20535

and

**UNITED STATES DEPARTMENT
OF JUSTICE**
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

Defendants.

Civil Action No. _____

COMPLAINT

The Reporters Committee for Freedom of the Press (“Reporters Committee” or “RCFP”) and The Associated Press (“AP”) (collectively, “Plaintiffs”), by and through their undersigned counsel, hereby allege as follows:

1. This is an action under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, for declaratory, injunctive, and other appropriate relief brought by the AP, one of the oldest and most trusted news organizations in the world, and the Reporters Committee, a nonprofit association dedicated to safeguarding the First Amendment’s guarantee of a free and unfettered press. 11:00

2. By this action, Plaintiffs seek to compel the Department of Justice (“DOJ”) and the Federal Bureau of Investigation (“FBI”) (collectively, “Defendants”) to comply with their obligations under FOIA to release requested records concerning the FBI’s practice of impersonating members of the news media, including the AP, in order to deliver surveillance software to targets of criminal investigations. Plaintiffs are statutorily entitled to disclosure of these records, which they seek so that they may inform the public about the nature and extent of the FBI’s impersonation of journalists and news organizations. Defendants have improperly withheld the records requested by Plaintiffs in violation of the law and in opposition to the public’s strong interest in obtaining information regarding a law enforcement practice that undermines both the credibility and independence of the news media.

PARTIES

3. The Reporters Committee is an unincorporated nonprofit association located at 1156 15th St. NW, Suite 1250, Washington, DC 20005.

4. The Associated Press is a not-for-profit news cooperative. Its members and subscribers include the nation’s newspapers, magazines, broadcasters, cable news services and Internet content providers. Its world headquarters are located at 450 West 33rd Street, New York, NY 10001.

5. Defendant United States Department of Justice (“DOJ”) is an agency of the federal government within the meaning of 5 U.S.C. § 551, 5 U.S.C. § 552(f) and 5 U.S.C. § 702

that has possession, custody, and/or control of the records that Plaintiffs seek. The DOJ's headquarters are located at 950 Pennsylvania Avenue NW, Washington, D.C. 20530.

6. Defendant Federal Bureau of Investigation ("FBI") an agency of the federal government within the meaning of 5 U.S.C. § 551, 5 U.S.C. § 552(f) and 5 U.S.C. § 702, and a component of Defendant DOJ, that has possession, custody, and/or control of the records that Plaintiffs seek. Its headquarters are located at 935 Pennsylvania Avenue, NW, Washington, D.C. 20535.

JURISDICTION AND VENUE

7. This Court has subject matter jurisdiction over this action and personal jurisdiction over Defendants pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331.

8. Venue lies in this district under 5 U.S.C. § 552(a)(4)(B).

FACTS

Background

9. In October of 2014 it came to light, through documents released by the FBI in response to a FOIA request made by the Electronic Frontier Foundation ("EFF"), that in 2007 the FBI had masqueraded as a member of the news media—specifically, as the AP—in order to deliver surveillance software to a criminal suspect's computer. *See Endpoint Surveillance Tools (CIPAV)*, <https://www.eff.org/document/fbicipav-08pdf> (last accessed Aug. 25, 2015).

10. The documents obtained by EFF showed that, as part of an investigation into a series of bomb threats at Timberline High School in Lacey, Washington in June of 2007, the FBI had obtained a warrant to deliver a specific type of surveillance software known as a "Computer and Internet Protocol Address Verifier" ("CIPAV") to a social media account associated with the threats. Once delivered, the CIPAV would send "the activating computer's IP address and/or

MAC address, other environment variables, and certain registry-type information to a computer controlled by the FBI,” thus enabling the FBI to identify the computer’s location and its user. *Id.* at p. 33.

11. On or about October 28, 2014, the FBI confirmed that, in order to successfully deliver a CIPAV to the bomb threat suspect’s computer, FBI agents had sent an electronic communication with a link to a fake news article headlined, “Bomb threat at high school downplayed by local police department,” and “Technology savvy student holds Timberline High School hostage”; the FBI attributed its fabricated story to “The Associated Press.” *See id.* at p. 62; *see also* Gene Johnson, *FBI says it faked AP story to catch bomb suspect*, The Associated Press (Oct. 28, 2014), <http://perma.cc/ZH7W-XBFS>. When the FBI’s bomb threat suspect clicked on the link, he unknowingly downloaded the CIPAV.

12. In addition to confirming that FBI agents had fabricated and distributed a phony AP story in order to dupe a suspect into downloading surveillance software, on or about October 28, 2014, FBI officials reportedly told members of the media that the agency was examining existing policies concerning agency impersonation of journalists and news organizations. Ellen Nakashima & Paul Farhi, *FBI lured suspect with fake Web page, but may have leveraged media credibility*, The Wash. Post (Oct. 28, 2014), <https://perma.cc/A5NX-UXE2>.

13. Shortly thereafter, on or about October 30, 2014, AP’s General Counsel Karen Kaiser hand delivered to the DOJ a letter addressed to Attorney General Eric Holder, expressing concern over the FBI’s actions, and asking for additional information regarding how often, and under what circumstances, the FBI poses as a member of the press. *See* Gene Johnson, *AP asks for accounting of fake FBI news stories*, The Associated Press (Oct. 30, 2014),

<http://perma.cc/FPY7-U8F3>; Letter from Karen Kaiser to Attorney General Holder (Oct. 30, 2014), <https://perma.cc/W46W-2DLW>.

14. Ms. Kaiser's letter protested "in the strongest possible terms the FBI's fabrication and publication of a fake Associated Press news story in connection with its June 2007 investigation," stating: "The FBI both misappropriated the trusted name of The Associated Press and created a situation where our credibility could have been undermined on a large scale It is improper and inconsistent with a free press for government personnel to masquerade as The Associated Press or any other news organization. The FBI may have intended this false story as a trap for only one person. However, the individual could easily have reposted this story to social networks, distributing to thousands of people, under our name, what was essentially a piece of government disinformation." *Id.*

15. On or about November 6, 2014, the Reporters Committee, writing on behalf of itself and 25 other media organizations, also sent a letter to Attorney General Holder and FBI Director James Comey voicing concerns about the FBI's actions, including its apparent failure to follow internal guidelines regarding impersonation of members of the news media, and requesting additional information about the FBI's policies and practices. *See* Letter from the Reporters Committee to Attorney General Holder and FBI Director Comey (Nov. 6, 2014), <http://perma.cc/NEB5-F6LK> ("The utilization of news media as a cover for delivery of electronic surveillance software is unacceptable. This practice endangers the media's credibility and creates the appearance that it is not independent of the government").

16. On the same day, The New York Times published a letter to the editor from Mr. Comey that defended the FBI's impersonation of an AP reporter. Mr. Comey confirmed in his letter that the FBI had done more than merely create a fake news story attributed to the AP, but

that an undercover FBI officer had also “portrayed himself as an employee of The Associated Press, and asked if the suspect would be willing to review a draft article about the threats and attacks, to be sure that the anonymous suspect was portrayed fairly.” See James Comey, Letter to the Editor, *To Catch a Crook: The F.B.I.’s Use of Deception*, N.Y. Times (Nov. 6, 2014), <http://perma.cc/GZ4C-N6B5>.

17. Mr. Comey stated that undercover operations involving deception had “long been a critical tool in fighting crime,” and that the FBI’s use of such techniques “is subject to close oversight, both internally and by the courts that review our work.” *Id.* Mr. Comey stated his belief that the FBI’s impersonation of an AP reporter “was proper and appropriate under Justice Department and FBI guidelines at the time. Today, the use of such an unusual technique would probably require higher-level approvals than in 2007, but it would still be lawful and, in a rare case, appropriate.” *Id.*

18. Kathleen Carroll, executive editor of the AP, responded in a statement on November 7, 2014: “This latest revelation of how the FBI misappropriated the trusted name of The Associated Press doubles our concern and outrage, expressed earlier to Attorney General Eric Holder, about how the agency's unacceptable tactics undermine AP and the vital distinction between the government and the press.” Statement of Kathleen Carroll, *AP ‘Outraged’ by FBI Impersonation*, The Associated Press (Nov. 7, 2014), <http://perma.cc/UX2U-H6CH>.

19. In a letter of November 10, 2014 to Attorney General Eric Holder and FBI Director James Comey, AP President and Chief Executive Officer Gary Pruitt demanded assurances from the Justice Department that the FBI would never again impersonate a member of the news media. “In stealing our identity, the FBI tarnishes [the AP’s] reputation, belittles the value of the free press rights enshrined in our Constitution and endangers AP journalists and

other newsgatherers around the world. This deception corrodes the most fundamental tenet of a free press — our independence from government control and corollary responsibility to hold government accountable.” *See* Letter from Gary Pruitt to Attorney General Holder and FBI Director Comey (Nov. 10, 2014), <https://perma.cc/WXH3-8JFW>.

20. Notwithstanding the FBI’s admission in October of 2014 that it had posed as the AP in order to electronically deliver a CIPAV to a criminal suspect, as well as the subsequent demands from the AP, Reporters Committee, and others that the FBI make a public accounting of its practices, the FBI has since withheld information from the press and the public about its practice of impersonating members of the news media in order to deliver surveillance software to targets of investigations. Specifically, as alleged below, the FBI has withheld—and continues to withhold—records concerning that practice that were requested by Plaintiffs more than nine months ago.

Plaintiffs’ FOIA Requests

The AP Request

21. On November 6, 2014, AP reporter Raphael Satter, on behalf of the AP, sent a FOIA request via email to both the FBI’s central FOIA office and the FBI’s Seattle Division seeking:

- (1) “Any documents referring to the decision to create the fake AP news article in the Timberline High School case. In particular, I seek correspondence between the FBI’s Seattle office and FBI headquarters about the case. I also seek a copy of the internal review carried out by the FBI and a copy of the Web link sent by the FBI to suspect in 2007”;

(2) “An accounting of the number of times, between Jan. 1, 2000 and Nov. 6, 2014, that the Federal Bureau of Investigation has impersonated media organizations or generated media-style material (including but not limited to emails, webpages or links) to deliver malicious software to suspects or anyone else caught up in an investigation”; and

(3) “Any documents—including training material, reviews and policy briefings—dealing with the creation and deployment of bogus news stories or media-style material in an investigative context.”

A true and correct copy of that request (the “AP Request”) is attached hereto as Exhibit A, and incorporated by reference herein.

22. The AP Request included a request for a fee benefit as a representative of the news media under 5 U.S.C. § 552(a)(4)(A), as well as a request for a fee waiver.

23. The AP Request also included a request for expedited processing. The AP Request states, *inter alia*, that the requested records are related to “a currently unfolding news story, specifically, the FBI’s use of media organizations as cover to hack into suspects’ computers and the appropriation of media groups’ branding to help camouflage covert action. Some have argued those actions place reporters at risk of harm and chip away at the credibility of legitimate newsgathering organizations.”

24. Mr. Satter certified that the statements in the AP Request concerning the need for expedited processing were true and correct to the best of his knowledge and belief.

25. The AP Request complied with all applicable DOJ regulations regarding the submission of FOIA requests.

The RCFP Requests

26. On October 31, 2014, Adam A. Marshall and Hannah Bloch-Wehba, on behalf of the Reporters Committee, submitted two separate FOIA requests to the FBI's central FOIA office via facsimile and email (collectively, the "RCFP Requests").

27. RCFP's first FOIA request sought "all records concerning the FBI's utilization of links to what are or appear to be news media articles or news media websites to install data extraction software, remote access search and surveillance tools, or the 'Computer and Internet Protocol Address Verifier' (CIPAV)." A true and correct copy of that request ("RCFP FOIA Request 1") is attached hereto as Exhibit B, and incorporated by reference herein.

28. RCFP's second FOIA request sought "all records concerning the FBI's guidelines and policies concerning undercover operations or activities in which a person may act as a member of the news media, including, but not limited to, the guidelines and policies relating to the criminal and national security undercover operations review committees and the Sensitive Operations Review Committee; guidelines and policies concerning the use of investigative methods targeting or affecting the news media, including, but not limited to, sensitive Title III applications; and all guidelines and policies concerning sensitive investigative matters involving the activities of the news media or relating to the status, involvement, or impact of an investigation upon the news media." A true and correct copy of that request ("RCFP FOIA Request 2") is attached hereto as Exhibit C, and incorporated by reference herein.

29. The RCFP Requests included a request for a fee benefit as a representative of the news media under 5 U.S.C. § 552(a)(4)(A), as well as a request for a fee waiver. The RCFP Requests state, *inter alia*, that information responsive to the requests was being sought for "dissemination to the general public through multiple avenues," including RCFP's website,

email newsletters, and its quarterly magazine. In addition, in support of the Reporters Committee's request for a fee waiver, the RCFP Requests point to "widespread public debate and interest in the FBI's creation of a fake news story to plant software on a suspect's computer."

30. The RCFP Requests also included a request for expediting processing, noting, *inter alia*, that pending proposed changes to Rule 41 of the Federal Rules of Criminal Procedure concerning the issuance of warrants in connection with federal law enforcement investigations had created an urgent need on the part of the press and the public for the information sought by the RCFP Requests.

31. Mr. Marshall and Ms. Bloch-Wehba certified that the statements in the RCFP Requests concerning the need for expedited processing were true and correct to the best of their knowledge and belief.

32. The RCFP Requests complied with all applicable DOJ regulations regarding submitting FOIA requests.

Defendant's Treatment of Plaintiffs' FOIA Requests

The AP Request

33. In a letter from David M. Hardy dated December 1, 2014, the FBI acknowledged receipt of the AP Request. The acknowledgment stated that a search was being conducted for responsive records, and that the AP's request for a fee waiver was being considered.

34. In a letter from Mr. Hardy dated December 8, 2014, the FBI stated that it had granted expedited processing for the AP Request pursuant to 28 C.F.R. § 16.5(d)(1)(iv).

35. In a letter from Mr. Hardy dated December 10, 2014, the FBI stated that, even though the request had yet to be fulfilled, the AP Request was unilaterally "being closed

administratively,” because the “material responsive to your request will be processed in FOIA 1313504-0 as they share the same information.”

36. The combining of Mr. Satter’s request with Request No. 1313504-0 occurred despite the fact that Mr. Satter had not filed Request No. 1313504-0 and was given no information about the identity of the requester underlying FOIA Request No. 1313504-0.

37. In a letter from Mr. Hardy dated December 17, 2014, the FBI stated that it had granted a fee waiver for the AP Request pursuant to 5 U.S.C. § 552(a)(4)(a)(iii) and 28 C.F.R. § 16.11(k).

38. Having received no further information or communication from the FBI concerning the AP Request, on February 9, 2015, Mr. Satter wrote to David Sobonya, the FBI’s Public Information Officer, via email to request information concerning the status of the AP Request. Specifically, Mr. Satter’s email sought clarification as to what was meant by the statement in Mr. Hardy’s letter dated December 10, 2014 that the AP Request was being “closed administratively,” as well as a time estimate for the completion of the request. Mr. Satter also sought information about the identity of the individual or entity that filed Request No. 1313504-0.

39. Mr. Sobonya responded to Mr. Satter on or about February 9, 2015, stating that that the estimated completion time for large requests is 649 days.

40. Mr. Soobonya also stated that he could not identify the party underlying FOIA Request No. 1313504-0.

41. Having received no further information or communication from the FBI concerning the AP Request, on June 3, 2015, the AP submitted an administrative appeal to the Office of Information Policy (“OIP”) at DOJ (the “AP Appeal”).

42. By letter dated July 7, 2015, OIP acknowledged receipt of the AP Appeal.

43. By letter dated August 21, 2015, OIP refused to consider the administrative appeal of the AP request, stating that “[a]s no adverse determination has yet been made by the FBI on Request No. 1313504, there is no further action for this Office to consider on appeal.”

44. As of the filing of this Complaint, no further information or communication from Defendants concerning the AP Appeal or the AP Request has been received by AP.

45. As of the filing of this Complaint, it has been 294 days since the AP Request was submitted, and 85 days since the AP Appeal was submitted.

The RCFP Requests

46. On November 3, 2014, Mr. Sobonya, the FBI’s Public Information Officer, confirmed the FBI’s receipt of the RCFP Requests via email.

47. On December 22, 2014, Mr. Sobonya wrote to the Reporters Committee requesting copies of the RCFP Requests. That same day, Ms. Bloch-Wehba, on behalf of the Reporters Committee, sent Mr. Sobonya copies of the RCFP Requests via email.

48. In a letter from Mr. Hardy dated January 8, 2015, the FBI denied the Reporters Committee’s request for expedited processing as to RCFP Request 2, seeking “all records concerning the FBI’s guidelines and policies concerning undercover operations or activities in which a person may act as a member of the news media”

49. In a letter from Mr. Hardy dated May 18, 2015, the FBI stated that it had “conducted a search of the Central Records System” in connection with RCFP Request 1, seeking “all records concerning the FBI’s utilization of links to what are or appear to be news media articles or news media websites to install data extraction software, remote access search and surveillance tools, or the ‘Computer and Internet Protocol Address Verifier’ (CIPAV),” and that the FBI was “unable to identify main file records responsive to the FOIA.”

50. Having received no further information or communication from the FBI concerning either of the RCFP Requests, on June 2, 2015, RCFP submitted, via U.S. Mail, administrative appeals for both RCFP Requests to OIP (collectively, the “RCFP Appeals”).

51. With respect to RCFP Request 1, the Reporters Committee’s asserted in its appeal that the FBI had failed to conduct an adequate search for responsive records. Pointing to, among other things, the fact that the FBI had already released records responsive to that request in response to an earlier FOIA request made by EFF, the Reporters Committee stated that there could be no question that the FBI had responsive records.

52. With respect RCFP Request 2, the Reporters Committee’s asserted in its appeal that the FBI had failed to make a determination with respect to the request within the statutory time limits proscribed by FOIA.

53. OIP acknowledged receipt of the RCFP Appeals by letters dated July 9, 2015. Said letters state that the RCFP Appeals were received by OIP on June 11, 2015.

54. In response to the administrative appeal of RCFP Request 1, OIP upheld the sufficiency of the FBI’s search by letter dated August 5, 2015. The letter states, *inter alia*, that OIP determined that the FBI “conducted an adequate, reasonable search for [responsive] records.” The letter also states that while the FBI’s initial determination with respect to RCFP Request 1 stated that the CRS was searched, that was a “typographical error. The FBI conducted a search of its Operational Technology Division for responsive records.”

55. By letter dated August 4, 2015, OIP refused to consider the administrative appeal of RCFP Request 2, stating that “[a]s no adverse determination has yet been made by the FBI, there is no action for this Office to consider on appeal.”

56. As of the filing of this Complaint, no further information or communication from Defendants concerning the RCFP Appeals or the RCFP Requests has been received by the Reporters Committee.

57. As of the filing of this Complaint, it has been 300 days since the RCFP Requests were submitted, and 86 days since the RCFP Appeals were submitted.

CAUSES OF ACTION

Count I

Violation of FOIA for Failure to Comply with Statutory Deadlines

58. Plaintiffs repeat, reallege, and incorporate the allegations set forth in the foregoing as though fully set forth herein.

59. Defendants are agencies subject to FOIA. 5 U.S.C. § 556(f); 5 U.S.C. § 551.

60. The AP Request and the RCFP Requests properly seek records within the possession, custody, and/or control of Defendants under FOIA.

61. Defendants have failed to process the AP Request as soon as practicable. 5 U.S.C. § 552(a)(6)(E)(iii).

62. Defendants failed to make a determination with respect to the AP Request within the 20 working-day deadline mandated by FOIA. 5 U.S.C. § 556(a)(6)(A).

63. Defendants failed to make a determination with respect to the RCFP Requests within the 20 working-day deadline mandated by FOIA. 5 U.S.C. § 556(a)(6)(A).

64. Plaintiffs have or are deemed to have exhausted applicable administrative remedies. 5 U.S.C. § 552(a)(6)(C)(i).

Count II

Violation of FOIA for Wrongful Withholding of Agency Records

65. Plaintiffs repeat, reallege, and incorporate the allegations set forth in the foregoing as though fully set forth herein.
66. Defendants are agencies subject to FOIA. 5 U.S.C. § 556(f); 5 U.S.C. § 551.
67. The AP Request and the RCFP Requests properly seek records within the possession, custody, and/or control of Defendants under FOIA.
68. Defendants failed to make responsive records available to Plaintiffs, in violation of FOIA. 5 U.S.C. § 552(a)(3)(A).
69. Plaintiffs have or are deemed to have exhausted applicable administrative remedies. 5 U.S.C. § 552(a)(6)(C)(i).

Count III

Violation of FOIA for Failure to Conduct a Reasonable Search

70. Plaintiffs repeat, reallege, and incorporate the allegations set forth in the foregoing as though fully set forth herein.
71. Defendants are agencies subject to FOIA. 5 U.S.C. § 556(f); 5 U.S.C. § 551.
72. The AP Request and the RCFP Requests properly seek records within the possession, custody, and/or control of Defendants under FOIA.
73. Defendants have failed to conduct a search reasonably calculated to identify all records responsive to the AP Request and the RCFP Requests in violation of its obligations under FOIA. 5 U.S.C. § 552(a)(3).
74. Plaintiffs have or are deemed to have exhausted applicable administrative remedies. 5 U.S.C. § 552(a)(6)(C)(i).

Count IV

Violation of FOIA for Failure to Grant News Media Fee Status and Fee Waivers

75. Plaintiffs repeat, reallege, and incorporate the allegations set forth in the foregoing as though fully set forth herein.

76. Defendants are agencies subject to FOIA. 5 U.S.C. § 556(f); 5 U.S.C. § 551.

77. The RCFP Requests set forth facts supporting a determination that the Reporters Committee is entitled to news media fee status.

78. The RCFP Requests set forth facts supporting a determination that the Reporters Committee is entitled to a fee waiver.

79. Defendants failed to make a determination with respect to Plaintiff Reporters Committee's news media fee status in violation of FOIA. 5 U.S.C. § 552(a)(4).

80. Defendants failed to make a determination with respect to Plaintiff Reporter Committee's requests for a fee waiver, in violation of FOIA. 5 U.S.C. § 552(a)(4).

81. Plaintiff Reporters Committee has or is deemed to have exhausted applicable administrative remedies. 5 U.S.C. § 552(a)(6)(C)(i).

REQUEST FOR RELIEF

WHEREFORE, Plaintiff respectfully requests this Court:

- (1) order Defendants to conduct a search reasonably calculated to identify all records responsive to the AP Request and the RCFP Requests, and to immediately disclose, in their entirety, all records responsive to those requests that are not specifically exempt from disclosure under FOIA;
- (2) issue a declaration that Plaintiffs are entitled to disclosure of the requested records;
- (3) issue a declaration that Plaintiffs are entitled to news media fee status;

- (4) issue a declaration that the Reporters Committee is entitled to a fee waiver in connection with the RCFP Requests;
- (5) issue a declaration that Defendants and/or their personnel have acted arbitrarily and/or capriciously with respect to withholding records responsive to the AP Request and/or the RCFP Requests pursuant to 5 U.S.C. § 552(a)(4)(F)(i);
- (6) award Plaintiffs reasonable attorney fees and costs reasonably incurred in this action pursuant to 5 U.S.C. § 552(a)(4)(E); and
- (7) grant such other relief as the Court may deem just and proper.

Dated: August 27, 2015

Respectfully submitted,

/s/ Katie Townsend

Katie Townsend

DC Bar No. 1026115

THE REPORTERS COMMITTEE FOR
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*Of Counsel for The Reporters Committee
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Adam A. Marshall

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EXHIBIT A

Oval Road, Camden Lock
London N1 9LY
United Kingdom

6 November 2014

ap.org

Federal Bureau of Investigation
Attn: FOI/PA Request
Record/Information Dissemination Section
170 Marcel Drive
Winchester, VA 22602-4843
E-mail: foiparequest@ic.fbi.gov

CC:

Federal Bureau of Investigation
Seattle Division
Attn: Public Affairs Specialist Ayn Dietrich-Williams
1110 3rd Avenue
Seattle, WA 98101-2904
Email: Ayn.Dietrich@ic.fbi.gov

Dear FOIA Officer(s):

Pursuant to the federal Freedom of Information Act, 5 U.S.C. § 552, I request documents sufficient to identify the following information surrounding the decision to create a bogus Associated Press news story as part of the investigation into the Timberline High School bomb threats in 2007 in Olympia, Washington.

Specifically, I seek:

- Any documents referring to the decision to create the fake AP news article in the Timberline High School case. In particular, I seek correspondence between the FBI's Seattle office and FBI headquarters about the case. I also seek a copy of the internal review carried out by the FBI and a copy of the Web link sent by the FBI to suspect in 2007.
- An accounting of the number of times, between Jan. 1, 2000 and Nov. 6, 2014, that the Federal Bureau of Investigation has impersonated media organizations or generated media-style material (including but not limited to emails, webpages or links) to deliver malicious software to suspects or anyone else caught up in an investigation.
- Any documents _ including training material, reviews and policy briefings _ dealing with the creation and deployment of bogus news stories or media-style material in an investigative context.

I note that in comments to the Seattle Times published on Oct. 27 and Oct. 28, special agent Frank Montoya Jr. said that the “use of that type of technique happens in very rare circumstances.” He added that the decision to impersonate a media organization in an effort to catch the Timberline High School suspect “was looked at in the review process” and that the FBI routinely reviews cases that might touch on First Amendment issues. He added that his review of the Timberline High School case showed “there was plenty of discussion” surrounding the decision. [1][2]

Given the rarity with which such a technique is used and given that the technique appears to be reviewed as a matter of routine, I trust it will not be overly difficult to supply an accounting of the number of times such a tactic was deployed. Additionally, I note the amount of discussion generated internally and the speed with which special agent Frank Montoya Jr. was able to locate it. Therefore I trust it will not be overly difficult to provide the relevant documents.

I am making this request as a reporter with AP and this request is made as part of newsgathering and not for commercial use. As a representative of the news media I am only required to pay for the direct cost of duplication after the first 100 pages.

I ask that you waive any and all applicable fees associated with this request. Through this request, I am gathering information on law enforcement’s use of offensive software and their use of media organizations or media-style content to help camouflage it. Release of this information is in the public interest because it will contribute significantly to public understanding of government operations and activities, particularly insofar as it involves the deployment of high-tech tools whose use is controversial, is little understood by the general public and has generated significant public debate.[3] If you deny this request for a fee waiver, please advise me in advance of the estimated charges if they are to exceed \$100.

If my request is denied in whole or part, I ask that you justify all deletions by reference to specific exemptions of the Act. I will also expect you to release all segregable portions of otherwise exempt material. I reserve the right to appeal your decision to withhold any information or to deny a waiver of fees.

I also ask that you provide expedited review of this request which concerns a matter of urgency. The information sought relates to a currently unfolding news story, specifically, the FBI’s use of media organizations as cover to hack into suspects’ computers and the appropriation of media groups’ branding to help camouflage covert action. Some have argued those actions place reporters at risk of harm and chip away at the credibility of legitimate newsgathering organizations. Second, the request obviously concerns federal government activity, as the request seeks information on how and why officials

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impersonate media organizations. Finally, as the world's oldest and largest news organization, the AP is a credible requester. I certify that my statements concerning the need for expedited review are true and correct to the best of my knowledge and belief.

If you deny expedited processing, I expect to receive a response to the request within 20 business days, as the statute requires.

As I am making this request as a journalist and the information is of timely value, I would appreciate your communicating with me by telephone +44 7795 487 087 or e-mail rsatter@ap.org, rather than by mail, if you have questions regarding this request

Finally, I note that President Obama's January 21, 2009 "Presidential Memorandum for the Heads of Executive Departments and Agencies on the Freedom of Information Act" specifically stated that in responding to requests under the FOIA, "executive branch agencies should act promptly and in a spirit of cooperation, recognizing that such agencies are servants of the public." Moreover, it held that all agencies "should adopt a presumption in favor of disclosure, in order to renew their commitment to the principles embodied in FOIA, and to usher in a new era of open Government. The presumption of disclosure should be applied to all decisions involving FOIA."

In the spirit of such cooperation and the presumption of disclosure, I look forward to your prompt response.

Thank you for your assistance.

Sincerely,



Raphael Satter

[1] "FBI created fake Seattle Times Web page to nab bomb-threat suspect," Mike Carter, *Seattle Times* (Oct. 27, 2014) http://seattletimes.com/html/localnews/2024888170_fbifakestoryxml.html

[2] "FBI confirms it used fake story, denies bogus Times Web link" Mike Carter, *Seattle Times* (Oct. 28, 2014) http://seattletimes.com/html/localnews/2024894799_fbifakestoryxml.html

[3] "Seattle Times Furious with FBI over Allegations That the Agency Impersonated the Newspaper" Ansel Herz, *The Stranger* (Oct. 27, 2014) <http://www.thestranger.com/slog/archives/2014/10/27/seattle-times-furious-with-fbi-over-allegations-that-the-agency-impersonated-the-newspaper>

EXHIBIT B

REPORTERS COMMITTEE

FOR FREEDOM OF THE PRESS

1101 Wilson Blvd., Suite 1100
Arlington, Va. 22209-2211
(703) 807-2100
www.rcfp.org

Bruce D. Brown
Executive Director
bbrown@rcfp.org
(703) 807-2101

STEERING COMMITTEE

SCOTT APPLEWHITE
The Associated Press

WOLF BLITZER
CNN

DAVID BOARDMAN
Temple University

CHIP BOK
Creators Syndicate

JAN CRAWFORD
CBS News

MICHAEL DUFFY
Time

RICHARD S. DUNHAM
Tsinghua University, Beijing

ASHLEA EBELING
Forbes Magazine

SUSAN GOLDBERG
National Geographic

FRED GRAHAM
Founding Member

JOHN C. HENRY
Freelance

NAT HENTOFF
United Media Newspaper Syndicate

JEFF LEEN
The Washington Post

DAHLIA LITHWICK
Slate

TONY MAURO
National Law Journal

JANE MAYER
The New Yorker

DAVID McCUMBER
Hearst Newspapers

JOHN MCKINNON
The Wall Street Journal

DOYLE MCMANUS
Los Angeles Times

ANDREA MITCHELL
NBC News

MAGGIE MULVIHILL
Boston University

BILL NICHOLS
Politico

JEFFREY ROSEN
The New Republic

CAROL ROSENBERG
The Miami Herald

THOMAS C. RUBIN
Microsoft Corp.

ERIC SCHMITT
The New York Times

ALICIA SHEPARD
Freelance

MARGARET LOW SMITH
The Atlantic

JENNIFER SONDAG
Bloomberg News

PAUL STEIGER
Pro Publica

PIERRE THOMAS
ABC News

SAUNDRA TORRY
USA Today

JUDY WOODRUFF
PBS/The NewsHour

*Affiliations appear only
for purposes of identification.*

Adam Marshall
Hannah Bloch-Wehba
Reporters Committee for Freedom of the Press
1101 Wilson Blvd., Suite 1100
Arlington, VA 22209

Federal Bureau of Investigation
Attn: FOI/PA Request
Record/Information Dissemination Section
170 Marcel Drive
Winchester, VA 22602-4843
Fax: (540) 868-4391/4997
foiparequest@ic.fbi.gov

October 31, 2014

Via facsimile and electronic mail

RE: FREEDOM OF INFORMATION ACT REQUEST

Fee waiver requested
Expedited processing requested

Dear FOIA Officer:

This letter constitutes a request under the federal Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, and is submitted on behalf of the Reporters Committee for Freedom of the Press ("RCFP" or the "Reporters Committee") to the Federal Bureau of Investigation ("FBI"). The Reporters Committee is a nonprofit association of news reporters and editors.

I. Records Requested

Pursuant to the FOIA, I, on behalf of the RCFP, request access to and copies of all records concerning the FBI's utilization of links to what are or appear to be news media articles or news media websites to install data extraction software, remote access search and surveillance tools, or the "Computer and Internet Protocol Address Verifier" (CIPAV).

I would like to receive the information in electronic form, preferably PDFs. If possible, please also provide PDFs that have been subjected to optical character recognition (OCR) or are otherwise electronically searchable, in order to facilitate public access to the content of the information.

II. Fee Waiver Requested

As a representative of the news media, I am only required to pay for the direct cost of duplication after the first 100 pages. Through this request, I am gathering information that relates to the FBI's use of links to news media websites in its investigation of US citizens. Such tactics have recently sparked widespread public debate.¹ This information is being sought on behalf of the Reporters Committee for dissemination to the general public through multiple avenues, including its website,² email newsletters, and *The News Media & The Law*,³ RCFP's quarterly magazine that has been continuously published since 1977.

In addition, I request that you waive any applicable fees. Release of the information is in the public interest because it will contribute significantly to public understanding of government operations and activities.⁴ There has been widespread public debate and interest in the FBI's creation of a fake news story to plant software on a suspect's computer.⁵ Information gathered through this request will help the public understand how the FBI is using media website links to conduct its investigations.

This request is not primarily in the commercial interest of the Reporters Committee.⁶ RCFP is a designated 501(c)(3) nonprofit association of news reporters and editors. This information is being sought for free dissemination to the general public through the several publishing avenues of the Reporters Committee.

In the case that my request for a fee waiver is denied, I am willing to pay up to \$50.00 to process my request. Please inform me if the fees will exceed that amount.

III. Expedited Processing Requested

Please provide expedited processing of this request, which concerns a matter of urgency to inform the public about federal government activity.⁷ Additionally, the Reporters Committee is primarily engaged in the dissemination of information. As noted above, the Reporters Committee is a nonprofit association of news reporters and editors, and it routinely publishes information on its website, through email newsletters, and through its quarterly magazine, *The News Media & The Law*. RCFP intends to

¹ See, e.g., Ellen Nakashima & Paul Farhi, *FBI lured suspect with fake Web page, but may have leveraged media credibility*, THE WASHINGTON POST (Oct. 28, 2014), http://www.washingtonpost.com/world/national-security/fbi-lured-suspect-with-fake-web-page-but-may-have-leveraged-media-credibility/2014/10/28/e6a9ac94-5ed0-11e4-91f7-5d89b5e8c251_story.html?hpid=z6.

² <https://www.rcfp.org/>.

³ Available at <http://www.rcfp.org/magazine-archive>.

⁴ 28 C.F.R. § 16.11(k); 5 U.S.C. § 552(a)(4)(A)

⁵ Mike Carter, *FBI created fake Seattle Times Web page to nab bomb-threat suspect*, THE SEATTLE TIMES (Oct. 27, 2014), http://seattletimes.com/html/localnews/2024888170_fbinewspaper1.xml.html.

⁶ 28 C.F.R. § 16.11(k)(ii).

⁷ 28 C.F.R. § 16.5(d)(1)(ii).

disseminate information obtained through this request to the general public through these publications.

The public has an urgent need for information about the FBI's use of such tactics because of pending proposed changes to Rule 41 of the Federal Rules of Criminal Procedure. As you are aware, Rule 41 regards the issuance of warrants to federal law enforcement officers, and was the mechanism used by the FBI to plant the software on the suspect's computer in the story mentioned above.⁸ The Judicial Conference Advisory Committees on Appellate, Bankruptcy, Civil, and Criminal Rules has recently proposed several changes to Rule 41, and has invited the public to both present testimony at public hearings and submit comments on the proposed changes.⁹ The proposed changes specifically address, among other things, the authority of magistrate judges to authorize the use of "remote access" to search electronic storage.¹⁰ It is therefore imperative that citizens of the United States have access to records that allow them to understand how the FBI has, pursuant to Rule 41 and otherwise, utilized links to purported news media articles and websites, so that they may comment on the proposed changes. Access to such information is necessary for the democratic process to function properly.

I certify that my statements concerning the need for expedited processing are true and correct to the best of my knowledge and belief.

IV. Conclusion

If this request is denied in whole or part, I ask that you justify all deletions by reference to specific exemptions of the act. I will also expect you to release all segregable portions of otherwise exempt material.

If you have any questions regarding this request, please do not hesitate to call me at (571) 481-9324 or by email at amarshall@rcfp.org

I look forward to your determination regarding my request for expedited processing within 10 calendar days of this request.¹¹

Thank you in advance for your assistance in this matter.

⁸ *Endpoint Surveillance Tools (CIPAV)*, EFF, <https://www.eff.org/document/fbicpav-08pdf> (last accessed Oct. 29, 2014); *supra*, note 1.

⁹ *Proposed Amendments Published for Public Comment*, UNITED STATES COURTS, <http://www.uscourts.gov/rulesandpolicies/rules/proposed-amendments.aspx> (last accessed Oct. 29, 2014).

¹⁰ Committee on Rules of Practice and Procedure of the Judicial Conference of the United States, *Preliminary Draft of Proposed Amendments to the Federal Rules of Appellate, Bankruptcy, Civil, and Criminal Procedure*, UNITED STATES COURTS (Aug. 2014), <http://www.uscourts.gov/uscourts/rules/preliminary-draft-proposed-amendments.pdf>.

¹¹ 5 U.S.C. § (a)(6)(E)(ii); 28 C.F.R. § 16.5(d)(4).

Sincerely,

Adam Marshall
Jack Nelson Legal Fellow

Hannah Bloch-Wehba
Stanton Foundation Fellow

EXHIBIT C

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TONY MAURO
National Law Journal

JANE MAYER
The New Yorker

DAVID McCUMBER
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The Wall Street Journal

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Los Angeles Times

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MAGGIE MULVIHILL
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BILL NICHOLS
Politico

JEFFREY ROSEN
The New Republic

CAROL ROSENBERG
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THOMAS C. RUBIN
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ERIC SCHMITT
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Bloomberg News

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PIERRE THOMAS
ABC News

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USA Today

JUDY WOODRUFF
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*Affiliations appear only
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Adam Marshall
Hannah Bloch-Wehba
Reporters Committee for Freedom of the Press
1101 Wilson Blvd., Suite 1100
Arlington, VA 22209

Federal Bureau of Investigation
Attn: FOI/PA Request
Record/Information Dissemination Section
170 Marcel Drive
Winchester, VA 22602-4843
Fax: (540) 868-4391/4997
foiparequest@ic.fbi.gov

October 31, 2014

Via facsimile and electronic mail

RE: FREEDOM OF INFORMATION ACT REQUEST

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Expedited processing requested

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I. Records Requested

Pursuant to the FOIA, I, on behalf of the RCFP, request access to and copies of all records concerning the FBI's guidelines and policies concerning undercover operations or activities in which a person may act as a member of the news media, including, but not limited to, the guidelines and policies relating to the criminal and national security undercover operations review committees and the Sensitive Operations Review Committee; guidelines and policies concerning the use of investigative methods targeting or affecting the news media, including, but not limited to, sensitive Title III applications; and all guidelines and policies concerning sensitive investigative matters involving the activities of the news media or relating to the status, involvement, or impact of an investigation upon the news media.

I would like to receive the information in electronic form, preferably PDFs. If possible, please also provide PDFs that have been subjected to optical character recognition (OCR) or are otherwise electronically searchable, in order to facilitate public access to the content of the information.

II. Fee Waiver Requested

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In addition, I request that you waive any applicable fees. Release of the information is in the public interest because it will contribute significantly to public understanding of government operations and activities.⁴ There has been widespread public debate and interest in the FBI's creation of a fake news story to plant software on a suspect's computer.⁵ Information gathered through this request will help the public understand how the FBI's internal policies and guidelines govern its use of media website links in investigations and undercover operations.

This request is not primarily in the commercial interest of the Reporters Committee.⁶ RCFP is a designated 501(c)(3) nonprofit association of news reporters and editors. This information is being sought for free dissemination to the general public through the several publishing avenues of the Reporters Committee.

In the case that my request for a fee waiver is denied, I am willing to pay up to \$50.00 to process my request. Please inform me if the fees will exceed that amount.

¹ See, e.g., Ellen Nakashima & Paul Farhi, *FBI lured suspect with fake Web page, but may have leveraged media credibility*, THE WASHINGTON POST (Oct. 28, 2014), http://www.washingtonpost.com/world/national-security/fbi-lured-suspect-with-fake-web-page-but-may-have-leveraged-media-credibility/2014/10/28/e6a9ac94-5ed0-11e4-91f7-5d89b5e8c251_story.html?hpid=z6.

² <https://www.rcfp.org/>.

³ Available at <http://www.rcfp.org/magazine-archive>.

⁴ 28 C.F.R. § 16.11(k); 5 U.S.C. § 552(a)(4)(A)

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The public has an urgent need for information about the FBI's use of these guidelines and policies because of pending proposed changes to Rule 41 of the Federal Rules of Criminal Procedure. As you are aware, Rule 41 regards the issuance of warrants to federal law enforcement officers. The Judicial Conference Advisory Committees on Appellate, Bankruptcy, Civil, and Criminal Rules has recently proposed several changes to Rule 41, and has invited the public to both present testimony at public hearings and submit comments on the proposed changes.⁸ The proposed changes specifically address, among other things, the authority of magistrate judges to authorize the use of "remote access" to search electronic storage.⁹ It is therefore imperative that citizens of the United States have access to records that allow them to understand how the FBI's guidelines and policies affect the FBI's use of Rule 41 search warrants, as well as other means, to impersonate any member of the news media, so that they may comment on the proposed changes. Access to such information is necessary for the democratic process to function properly.

I certify that my statements concerning the need for expedited processing are true and correct to the best of my knowledge and belief.

IV. Conclusion

If this request is denied in whole or part, I ask that you justify all deletions by reference to specific exemptions of the act. I will also expect you to release all segregable portions of otherwise exempt material.

If you have any questions regarding this request, please do not hesitate to call me at (571) 481-9324 or by email at amarshall@rcfp.org

⁷ 28 C.F.R. § 16.5(d)(1)(ii).

⁸ *Proposed Amendments Published for Public Comment*, UNITED STATES COURTS, <http://www.uscourts.gov/rulesandpolicies/rules/proposed-amendments.aspx> (last accessed Oct. 29, 2014).

⁹ Committee on Rules of Practice and Procedure of the Judicial Conference of the United States, *Preliminary Draft of Proposed Amendments to the Federal Rules of Appellate, Bankruptcy, Civil, and Criminal Procedure*, UNITED STATES COURTS (Aug. 2014), <http://www.uscourts.gov/uscourts/rules/preliminary-draft-proposed-amendments.pdf>.

I look forward to your determination regarding my request for expedited processing within 10 calendar days of this request.¹⁰

Thank you in advance for your assistance in this matter.

Sincerely,

Adam Marshall
Jack Nelson Legal Fellow

Hannah Bloch-Wehba
Stanton Foundation Fellow

¹⁰ 5 U.S.C. § (a)(6)(E)(ii); 28 C.F.R. § 16.5(d)(4).

CIVIL COVER SHEET

JS-44 (Rev. 7/13 DC)

I. (a) PLAINTIFFS The Reporters Committee for Freedom of the Press, The Associated Press <div style="text-align: right; margin-right: 50px;">11001</div> (b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF _____ (EXCEPT IN U.S. PLAINTIFF CASES)	DEFENDANTS Federal Bureau of Investigation, United States Department of Justice COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT _____ (IN U.S. PLAINTIFF CASES ONLY) <small>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED</small>
(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER) Katie Townsend The Reporters Committee for Freedom of the Press 1156 15th St. NW, Suite 1250, Washington DC 20005 (202) 795-9303	ATTORNEYS (IF KNOWN)

II. BASIS OF JURISDICTION (PLACE AN X IN ONE BOX ONLY) <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="width:45%;"> <input type="radio"/> 1 U.S. Government Plaintiff </div> <div style="width:45%;"> <input type="radio"/> 3 Federal Question (U.S. Government Not a Party) </div> </div> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="width:45%;"> <input checked="" type="radio"/> 2 U.S. Government Defendant </div> <div style="width:45%;"> <input type="radio"/> 4 Diversity (Indicate Citizenship of Parties in item III) </div> </div>	III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT) FOR DIVERSITY CASES ONLY! <table style="width:100%; border: none;"> <thead> <tr> <th></th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DFT</th> <th></th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DFT</th> </tr> </thead> <tbody> <tr> <td>Citizen of this State</td> <td style="text-align: center;"><input type="radio"/> 1</td> <td style="text-align: center;"><input type="radio"/> 1</td> <td>Incorporated or Principal Place of Business in This State</td> <td style="text-align: center;"><input type="radio"/> 4</td> <td style="text-align: center;"><input type="radio"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="radio"/> 2</td> <td style="text-align: center;"><input type="radio"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td style="text-align: center;"><input type="radio"/> 5</td> <td style="text-align: center;"><input type="radio"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="radio"/> 3</td> <td style="text-align: center;"><input type="radio"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="radio"/> 6</td> <td style="text-align: center;"><input type="radio"/> 6</td> </tr> </tbody> </table>		PTF	DFT		PTF	DFT	Citizen of this State	<input type="radio"/> 1	<input type="radio"/> 1	Incorporated or Principal Place of Business in This State	<input type="radio"/> 4	<input type="radio"/> 4	Citizen of Another State	<input type="radio"/> 2	<input type="radio"/> 2	Incorporated and Principal Place of Business in Another State	<input type="radio"/> 5	<input type="radio"/> 5	Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6
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Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6																				

IV. CASE ASSIGNMENT AND NATURE OF SUIT

(Place an X in one category, A-N, that best represents your Cause of Action and one in a corresponding Nature of Suit)

<input type="radio"/> A. Antitrust <input checked="" type="checkbox"/> 410 Antitrust	<input type="radio"/> B. Personal Injury/Malpractice <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Medical Malpractice <input type="checkbox"/> 365 Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Product Liability	<input type="radio"/> C. Administrative Agency Review <input type="checkbox"/> 151 Medicare Act <u>Social Security</u> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <u>Other Statutes</u> <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 890 Other Statutory Actions (If Administrative Agency is Involved)	<input type="radio"/> D. Temporary Restraining Order/Preliminary Injunction Any nature of suit from any category may be selected for this category of case assignment. *(If Antitrust, then A governs)*
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<input type="radio"/> E. General Civil (Other) OR <input type="radio"/> F. Pro Se General Civil			
<u>Real Property</u> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent, Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property <u>Personal Property</u> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<u>Bankruptcy</u> <input type="checkbox"/> 422 Appeal 27 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <u>Prisoner Petitions</u> <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Conditions <input type="checkbox"/> 560 Civil Detainee – Conditions of Confinement <u>Property Rights</u> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <u>Federal Tax Suits</u> <input type="checkbox"/> 870 Taxes (US plaintiff or defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609	<u>Forfeiture/Penalty</u> <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <u>Other Statutes</u> <input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 430 Banks & Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions <input type="checkbox"/> 470 Racketeer Influenced & Corrupt Organization	<input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Satellite TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions (if not administrative agency review or Privacy Act)

<input type="radio"/> G. Habeas Corpus/ 2255 <input type="checkbox"/> 530 Habeas Corpus – General <input type="checkbox"/> 510 Motion/Vacate Sentence <input type="checkbox"/> 463 Habeas Corpus – Alien Detainee	<input type="radio"/> H. Employment Discrimination <input type="checkbox"/> 442 Civil Rights – Employment (criteria: race, gender/sex, national origin, discrimination, disability, age, religion, retaliation) <i>*(If pro se, select this deck)*</i>	<input checked="" type="radio"/> I. FOIA/Privacy Act <input checked="" type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 890 Other Statutory Actions (if Privacy Act) <i>*(If pro se, select this deck)*</i>	<input type="radio"/> J. Student Loan <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (excluding veterans)
<input type="radio"/> K. Labor/ERISA (non-employment) <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Labor Railway Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="radio"/> L. Other Civil Rights (non-employment) <input type="checkbox"/> 441 Voting (if not Voting Rights Act) <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 445 Americans w/Disabilities – Employment <input type="checkbox"/> 446 Americans w/Disabilities – Other <input type="checkbox"/> 448 Education	<input type="radio"/> M. Contract <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholder's Suits <input type="checkbox"/> 190 Other Contracts <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<input type="radio"/> N. Three-Judge Court <input type="checkbox"/> 441 Civil Rights – Voting (if Voting Rights Act)

V. ORIGIN
☒ 1 Original Proceeding
 ☐ 2 Removed from State Court
 ☐ 3 Remanded from Appellate Court
 ☐ 4 Reinstated or Reopened
 ☐ 5 Transferred from another district (specify)
 ☐ 6 Multi-district Litigation
 ☐ 7 Appeal to District Judge from Mag. Judge

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)
 5 U.S.C. 552, Violations of the Freedom of Information Act

VII. REQUESTED IN COMPLAINT	CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 <input type="checkbox"/>	DEMAND \$	JURY DEMAND: YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
VIII. RELATED CASE(S) IF ANY	(See instruction)	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	If yes, please complete related case form

DATE: <u>8/25/15</u>	SIGNATURE OF ATTORNEY OF RECORD:
----------------------	----------------------------------

INSTRUCTIONS FOR COMPLETING CIVIL COVER SHEET JS-44
 Authority for Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and services of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. Listed below are tips for completing the civil cover sheet. These tips coincide with the Roman Numerals on the cover sheet.

- I.** COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF/DEFENDANT (b) County of residence: Use 11001 to indicate plaintiff if resident of Washington, DC, 88888 if plaintiff is resident of United States but not Washington, DC, and 99999 if plaintiff is outside the United States.
- III.** CITIZENSHIP OF PRINCIPAL PARTIES: This section is completed only if diversity of citizenship was selected as the Basis of Jurisdiction under Section II.
- IV.** CASE ASSIGNMENT AND NATURE OF SUIT: The assignment of a judge to your case will depend on the category you select that best represents the primary cause of action found in your complaint. You may select only one category. You must also select one corresponding nature of suit found under the category of the case.
- VI.** CAUSE OF ACTION: Cite the U.S. Civil Statute under which you are filing and write a brief statement of the primary cause.
- VIII.** RELATED CASE(S), IF ANY: If you indicated that there is a related case, you must complete a related case form, which may be obtained from the Clerk's Office.

Because of the need for accurate and complete information, you should ensure the accuracy of the information provided prior to signing the form.

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

The Reporters Committee for Freedom of the Press
and The Associated Press

Plaintiff

Federal Bureau of Investigation and
U.S. Department of Justice

Defendant

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Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Federal Bureau of Investigation
935 Pennsylvania Avenue, NW
Washington, DC 20535

A lawsuit has been filed against you.

Within 30 days after service of this summons on you (not counting the day you received it) you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Katie Townsend
The Reporters Committee for Freedom of the Press
1156 15th St. NW, Suite 1250
Washington, DC 20005

If you fail to respond, judgment by default may be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ANGELA D. CAESAR, CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*: _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

The Reporters Committee for Freedom of the Press
and The Associated Press

Plaintiff

Federal Bureau of Investigation and
U.S. Department of Justice

Defendant

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Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* U.S. Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

A lawsuit has been filed against you.

Within 30 days after service of this summons on you (not counting the day you received it) you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Katie Townsend
The Reporters Committee for Freedom of the Press
1156 15th St. NW, Suite 1250
Washington, DC 20005

If you fail to respond, judgment by default may be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ANGELA D. CAESAR, CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*: _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

The Reporters Committee for Freedom of the Press
and The Associated Press

Plaintiff

Federal Bureau of Investigation and
U.S. Department of Justice

Defendant

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Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

A lawsuit has been filed against you.

Within 30 days after service of this summons on you (not counting the day you received it) you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Katie Townsend
The Reporters Committee for Freedom of the Press
1156 15th St. NW, Suite 1250
Washington, DC 20005

If you fail to respond, judgment by default may be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ANGELA D. CAESAR, CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*: _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

The Reporters Committee for Freedom of the Press
and The Associated Press

Plaintiff

Federal Bureau of Investigation and
U.S. Department of Justice

Defendant

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Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* U.S. Attorney
Civil Process Clerk
555 4th Street, NW
Washington, DC 20530

A lawsuit has been filed against you.

Within 30 days after service of this summons on you (not counting the day you received it) you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Katie Townsend
The Reporters Committee for Freedom of the Press
1156 15th St. NW, Suite 1250
Washington, DC 20005

If you fail to respond, judgment by default may be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ANGELA D. CAESAR, CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: