



U.S. Department of Justice

Office of Information Policy

Telephone: (202) 514-3642

Washington, D.C. 20530

**FEB 05 2010**

Laura Rotolo, Esq.  
American Civil Liberties Union of Massachusetts  
211 Congress Street  
Boston, MA 02110

Re: Appeal Nos. 2010-1007, 2010-1028  
through 2010-1048  
Request Nos. 1141750 through  
1141771  
JGM:KWC

Dear Ms. Rotolo:

This is to advise you that your January 27, 2010 administrative appeals from the action of the Federal Bureau of Investigation on your requests for access to records pertaining to the FBI Joint Terrorism Task Force and the Anti-Terrorism Advisory Council in Massachusetts were received in this Office on February 3, 2010. You have appealed from the FBI's denial of your request for expedited treatment of your requests and the FBI's denial of your request for a fee waiver.

Your appeal pertaining to FBI Request No. 1141750 has been assigned number **2010-1007**, and your appeals pertaining to FBI Request Nos. 1141751 through 1141771 have been assigned numbers **2010-1028 through 2010-1048**, respectively. Please mention these numbers in any future correspondence with this Office regarding these appeals.

In your appeal letter, you assert your requests are entitled to expedited treatment pursuant to the second and fourth standards enumerated in the Department of Justice's regulations. Under the second standard, you must show that there is "[a]n urgency to inform the public about an actual or alleged federal government activity, if made by a person primarily engaged in disseminating information." 28 C.F.R. § 16.5(d)(1)(ii) (2009). Under the fourth standard, you must show that the subject matter of your request is 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 Office makes determinations regarding the second standard, while the Department's Director of Public Affairs makes determinations regarding the fourth standard. See 28 C.F.R. § 16.5(d)(2).

After carefully considering your appeals, I am affirming the FBI's action in denying your request for expedited treatment. I have determined that you have not met your burden under the second standard because you have not shown an "urgency to inform the public" about an actual or alleged federal government activity, and you have failed to establish that the American Civil Liberties Union of Massachusetts or Political Research Associates are "primarily engaged in

disseminating information." 28 C.F.R. § 16.5(d)(1)(ii). In deciding whether you have demonstrated that there is an "urgency to inform the public" under 28 C.F.R. § 16.5(d)(1)(ii), I considered three factors: "(1) whether the request concerns a matter of current exigency to the American public; (2) whether the consequences of delaying a response would compromise a significant recognized interest; and (3) whether the request concerns federal government activity." Al-Fayed v. CIA, 254 F.3d 300, 310 (D.C. Cir. 2001). Although your request concerns a federal government activity, you have not established that the requested records are a matter of current exigency to the American public, nor that delaying a response would compromise a significant recognized interest. Furthermore, although the American Civil Liberties Union of Massachusetts and Political Research Associates may well engage in the dissemination of information, you have not demonstrated that these entities are "primarily engaged" in disseminating information. See ACLU of N. Cal. v. U.S. Dep't of Justice, No. 04-4447, 2005 WL 588354, at \*14 (N.D. Cal. Mar. 11, 2005) ("[T]he court agrees with defendants that while dissemination of information may be a main activity of ACLU-NC, there is no showing that it is the main activity."). Without such a showing, expedited processing pursuant to the second standard is not warranted.

As for the FBI's action in denying your request for expedited treatment pursuant to the fourth standard, the Director of Public Affairs considered your request and determined that your request should be denied. You have failed to adequately demonstrate that the subject of your request is one "in which there exist possible questions about the government's integrity which affect public confidence." 28 C.F.R. § 16.5(d)(1)(iv). Accordingly, the Director of Public Affairs properly determined that you failed to meet your burden under the fourth standard for expedited processing. I agree with that determination.

Your appeal of the FBI's denial of your request for a waiver of fees will be placed into chronological order with the other pending appeals and will be addressed in turn. However, please note that these appeals have been assigned and are currently under review.

If you are dissatisfied with my action on your appeals from the FBI's denial of your request for expedited treatment, you may file a lawsuit in accordance with 5 U.S.C. § 552(a)(6)(E)(iii).

Sincerely,



Janice Galli McLeod  
Associate Director