

December 2, 2004

Patricia D. Harris, Management Analyst  
FOIA/PA Mail Referral Unit  
Department of Justice  
Room 1070, National Place Building  
Washington, DC 20530-0001

Federal Bureau of Investigation  
ATTN: Special Agent in Charge Daniel D. Roberts  
477 Michigan Avenue, Fl. 26  
Detroit, Michigan 48226

Departmental Disclosure Officer  
Department of Homeland Security  
Washington, D.C. 20528

Michigan Department of State Police  
Freedom of Information Unit  
7150 Harris Drive  
Lansing, MI 48913

**Re: REQUEST UNDER FEDERAL AND MICHIGAN FREEDOM OF INFORMATION ACTS/ Expedited Processing Requested**

Attention:

This letter constitutes a request under the federal Freedom of Information Act, 5 U.S.C. § 552 ("FOIA"), and the Michigan Freedom of Information Act, MCL 15.231 et seq. ("MFOIA"), by the American Civil Liberties Union of Michigan and the American Civil Liberties Union Fund of Michigan (collectively, the "ACLU"), on behalf of the ACLU, the Ann Arbor Area Committee for Peace (also sometimes known as Michigan Peaceworks), Direct Action, Life for Relief and Development, the National Lawyers Guild (Detroit Chapter), Students Allied for Freedom and Equality, Students for Economic Justice, Peace Action of Michigan, Homam Albaroudi, Phillis Englebert, Saleh Dean Husseini and Kary L. Moss (collectively, "the Requestors").

The Requestors seek and request disclosure of any and all records, as that term is defined to the fullest extent under the FOIA and MFOIA, created from January 2000 to the present, that were prepared, received, transmitted, collected and/or maintained by the FBI, the National Joint Terrorism Task Force, any Joint Terrorism Task Force or Foreign Terrorist Tracking Task Force, the Office of Law Enforcement Coordination, The National Intel Share (NIS) Project, the Michigan State Police, any formal or informal group, gathering or coalition involving one or more government employees, representative or agents or any member, representative or agent of

or for any of same relating or referring, directly or indirectly, to any of the Requestors or to any of their employees, members, officers or directors or to any activities of any of them.

The Requestors request limitation and waiver of fees pursuant to the provisions of the FOIA and MFOIA which provide for such limitation and waiver where, in the case of FOIA, disclosure of the information is to a news organization or in the public interest or, in the case of MFOIA, where searching for or furnishing copies of the public record can be considered as primarily benefiting the general public, because, among other things, searching for, disclosing and furnishing copies of the records sought by Requestors is likely to contribute significantly to public understanding of the operations or activities of the government and is not in the commercial interest of the Requestors. If our request for a waiver of fees under the FOIA and MFOIA is denied and it would cost more than two hundred fifty dollars (\$250.00) to process our request for records, please contact one of the people whose names appear in the last paragraph below before expending any additional sum.

The Requestors request that their request receive expedited processing because of one or more of the following reasons: (1) the compelling and urgent need of the Requestors to be informed of any surveillance, investigatory or other activities on the part of the FBI, the National Joint Terrorism Task Force, any Joint Terrorism Task Force, the Michigan State Police or any member, representative or agent of any of same relating or referring, directly or indirectly, to any of the Requestors or to any of their employees, members, officers or directors or to any activities of any of them; (2) the fact that there exist possible questions about the government's integrity relating to such activities and records, such as whether there is unlawful "targeting" or selection of groups or individuals for surveillance and investigation in connection with the activities of such government-related entities and individuals, which affect public confidence and which are a matter of widespread and exceptional media interest; (3) the fact that the ACLU and others of the Requestors are primarily engaged in disseminating information; (4) other appropriate reasons under the FOIA.

Pursuant to applicable regulations and statute, the Requestors expect your determination of their request for expedited processing under FOIA within 10 calendar days and your determination of their request for documents under FOIA within 20 days. See 28 C.F.R. 16.5(d)(4); 5 U.S.C. § 552(a)(6)(A)(i). Pursuant to applicable regulations and statute, the Requestors expect your response to their request under MFOIA within the statutorily mandated period of time. See, MCL 15.235(2). If our request under FOIA is denied in whole or in part, we ask that you justify all deletions by reference to specific exemptions applicable under the FOIA. If our request under MFOIA is denied in whole or in part, we ask that you justify all deletions by reference to specific exemptions applicable under the MFOIA. The Requestors expect you to release all "reasonably segregable portions" of otherwise exempt material under the FOIA and to separate the exempt and nonexempt material and make the nonexempt material available for examination and copying under the MFOIA.

The ACLU reserves the right to appeal, without limitation, a decision to withhold any records or information or to deny any request for limitation or waiver of fees.

Attached and made a part of this request is additional supporting and supplementary information and material (see, Addendum to FOIA Request - December 2, 2004).

Please direct all responses to this request to the undersigned. If there are any questions or you require further information about this request, please contact William A. Wichers II at 313-919-0331 or Michael J. Steinberg at 313-578-6814 between the hours of 9:00 a.m. and 5:00 p.m. EST.

Sincerely,

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William A. Wichers II, Cooperating Attorney

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Michael J. Steinberg, Legal Director  
American Civil Liberties Union Fund  
of Michigan  
60 West Hancock Street  
Detroit, Michigan 48221

## **Addendum to FOIA Request - December 2, 2004**

This supporting and supplementary information and material is not intended to and should not be construed to limit the scope of the FOIA request to which it is appended.

### **I. The Requestors**

1. The American Civil Liberties Union of Michigan and the American Civil Liberties Union Fund of Michigan (collectively, "ACLU"), are affiliated with The American Civil Liberties Union and the American Civil Liberties Union Foundation.<sup>1</sup> These organizations, and other affiliates, work to protect civil right and civil liberties. As the leading defenders of freedom, equality, privacy, and due process rights in the United States, these organizations have challenged the U.S. government's broad targeting and surveillance of innocent people as part of the war on terrorism, the government's crackdown on criticism and dissent, the secret and unchecked surveillance powers of the USA PATRIOT Act, the excessive restriction of government information available through the Freedom of Information Act, the unfair questioning and targeting of immigrants, the unfair detention and treatment of people detained in the U.S. as part of the war on terrorism, and the unlawful detention and abuse of prisoners held by the U.S. government in detention facilities overseas.

In particular, attorneys around the country have provided direct representation to individuals and organizations targeted by the FBI and state and local police for exercising their First Amendment right to criticize the government, including people who participated in numerous rallies and marches to protest the war in Iraq, who were excluded from meaningful participation at public presidential speeches, and who protested at the 2004 Republican and Democratic National Conventions. These organizations have also used litigation, lobbying, and public education efforts to limit oppressive FBI, and state and local police monitoring, interrogation and arrest of people at public rallies, marches, and meetings.

Attorneys also have filed lawsuits challenging three of the most controversial surveillance provisions of the USA Patriot Act: Section 215, which authorizes the FBI to obtain an unlimited array of personal records about innocent people through secret court orders; Section 505, which authorizes the FBI to issue National Security Letters demanding certain kinds of personal records without court oversight; and Section 218, which greatly expands the FBI's power to obtain wiretaps. In the lawsuit challenging the National Security Letter (NSL) power, organization attorneys represent an anonymous Internet Service Provider who received an NSL

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<sup>1</sup> The American Civil Liberties Union Foundation and the American Civil Liberties Union Fund of Michigan are 501(c)(3) organizations that provide legal representation free of charge to individuals and organizations in civil liberties cases, and educate the public about civil liberties issues. The American Civil Liberties Union and the American Civil Liberties Union of Michigan are separate non-profit, non-partisan, 501(c)(4) membership organizations that educate the public about the civil liberties implications of pending and proposed state and federal legislation, provide analyses of pending and proposed legislation, directly lobby legislators, and mobilize their members to lobby their legislators.

from the FBI, and remain under a strict gag order that prevents them from disclosing certain information about the case.

Attorneys working for and with these organizations have also provided direct representation to thousands of individuals interrogated by the FBI as part of the FBI's "voluntary" interview and special registration programs for Muslims and people of Arab and South Asian descent.

The ACLU regularly holds public membership meetings at which a wide range of civil liberties issues are discussed and debated. FBI Director Robert Mueller spoke at the national annual membership conference in June 2003. FBI whistleblower Colleen Rowley, and former national security advisor Richard Clarke, spoke at the American Civil Liberties Union annual membership conference in July 2004. The American Civil Liberties Union also routinely provides information to the public and the media through print and online communications about the erosion of civil rights and civil liberties after September 11, and encourages members and activists to oppose government anti-terrorism policies that unnecessarily violate civil rights and civil liberties.

The ACLU Fund of Michigan, in conjunction with the ACLU Foundation, successfully challenged the policy of blanket closures of immigration court proceedings after September 11. See *Detroit Free Press v. Ashcroft*, 303 F.3d 681 (6th Cir. 2002).

In 2004, the ACLU Fund of Michigan challenged Michigan State Police ("MSP") participation in MATRIX (the "Multistate Anti-Terrorism Information Exchange"), an interstate intelligence gathering organization that collects information on, among other things, Michigan residents who are not suspected of any wrongdoing. MATRIX is a "pilot project" to "leverage proven technology to assist criminal investigations by implementing factual data analysis from existing data sources and integrating disparate data from many types of Web-enabled storage systems" and its "Michigan Contact" is identified as Inspector Karen R. Halliday of the Investigative Services Bureau of the MSP according to the MATRIX website at <http://www.matrix-at.org/>.

The ACLU of Michigan and the ACLU Fund of Michigan were instrumental in exposing the fact that the Michigan State Police had spied upon and maintained "red squad" files on hundreds of law-abiding citizens who were active in the civil rights and anti-war movements of the 1960's and 1970's. The organizations also sued the Michigan State Police to return the files to the individuals who were being surveilled.

2. Direct Action is a community organization based in Lansing, Michigan dedicated to fighting for democracy while combating poverty and inequality. The organization formed in the wake of the September 11th terrorist attacks to create a voice for people who felt that the U.S. reaction to the 9/11 attacks would create a base for more terrorism and violence. It began by opposing the USA Patriot Act and the U.S. war in Afghanistan. Instead of simply complaining about the state of the world, it also wants to put forward an alternative vision for a world worth living in.

3. The Ann Arbor Area Committee for Peace, or Michigan Peaceworks, is an organization which promotes peaceful solutions to international conflicts and the protection of civil rights and civil liberties. Its work around peace involves collaborating with low-income communities around issues that affect their quality of life while making the link between local and global issues.

4. Life for Relief and Development ("LIFE") is a 501(c)(3) non-profit/non-governmental organization in Consultative Status with the Economic and Social Council of the United Nations and registered with the United States Agency for International Development ("USAID"). LIFE was founded in 1992 by concerned Iraqi-American professionals in response to the humanitarian crisis that developed in Iraq as a result of the 1991 Gulf War conflict. LIFE is dedicated to alleviating human suffering around the world regardless of race, color, religion or cultural background. The organization strives to offer a variety of humanitarian, health, educational services and programs to aid refugees and victims of natural or man-made disasters. LIFE has established partnerships with many international non-governmental organizations ("NGO's") including UNDP, UNICEF, Brother's Brother Foundation, Nour International Relief Aid, AmeriCares, Veterans For Peace, American Friend's Service Committee (AFSC), Care International and the Wheelchair Foundation. In March 2003, LIFE became a member of the American Council for Voluntary International Action (InterAction), which is the largest alliance of American international NGO's. LIFE's website, <http://www.lifeusa.org/index.php>, provides additional information about this organization.

5. The National Lawyers Guild (Detroit Chapter) is an affiliate of the National Lawyers Guild, an association dedicated to the need for basic change in the structure of our political and economic system. It seeks to unite the lawyers, law students, legal workers and jailhouse lawyers of America in an organization that will function as an effective political and social force in the service of the people, to the end that human rights will be regarded as more sacred than property interests.

6. Students Allied for Freedom and Equality (SAFE) was started in 2001 as an independent progressive student movement advocating for human rights, specifically those of the Palestinians, and since 2003 has taken a stance against the war in Iraq. SAFE has been involved in the Divestment Movement, a national movement aimed at pushing universities to withdraw their investments from companies that directly support the Israeli occupation of the West Bank and Gaza. SAFE hosted the Second National Conference of the Palestine Solidarity Movement in October of 2002 at the University of Michigan.

7. Students for Economic Justice is a student organization at Michigan State University working to support local, national, and international economic, labor rights, and human rights issues. Its primary purpose is to monitor the university's ties to the sweatshop industry. It is a chapter of United Students Against Sweatshops. In 2001, it learned that an undercover MSU police officer was attending meetings of the organization prior to the May, 2000 commencement appearance of the World Bank president. It was also reported that then university president M. Peter McPherson had agreed to the surveillance by the university police.

8. Peace Action of Michigan is the Michigan affiliate of the nation's largest grassroots peace and disarmament group. Peace Action believes that war is not a suitable

response to conflict and actively works to eliminate the threat of nuclear weapons and other weapons of mass destruction. Peace Action of Michigan has organized several demonstrations against the war in Iraq and works to bring about the withdrawal of U.S. troops from Iraq.

9. Homam Albaroudi is an individual who is active in Muslim charities, a board member of the Muslim Community Association and active in the Muslim community generally.

10. Phillis Englebert is the Director of the Ann Arbor Area Committee for Peace (the name of this organization will become Michigan Peaceworks in January, 2005)

11. Salah Dean Husseini is an individual who is a student at the University of Michigan and president of SAFE (see, above).

12. Kary L. Moss is the Executive Director of the American Civil Liberties Union of Michigan.

## **II. The Request for Information**

The Requestors seek and request disclosure of any records<sup>2</sup> created from January 2000 to the present, that were prepared, received, transmitted, collected and/or maintained by the FBI, the National Joint Terrorism Task Force, any Joint Terrorism Task Force or Foreign Terrorist Tracking Task Force, the Office of Law Enforcement Coordination, The National Intel Share (NIS) Project, or any member, representative or agent of any of same relating or referring, directly or indirectly, to any of the Requestors or to any of their employees, members, officers or directors or to any activities of any of them including but not limited to:

1. Any records that document any monitoring, surveillance, observation, questioning, interrogation, investigation or infiltration of, and/or collection of information about, any of the Requestors or any of their employees, members, officers or directors or their activities;<sup>3</sup>
2. Any orders, agreements, or instructions to monitor, observe, question, interrogate, investigate, infiltrate, and/or collect information about or conduct surveillance of any of the Requestors or any of their employees, members, officers or directors or their activities;

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<sup>2</sup> The term "records" as used herein includes, but is not limited to, all records or communications preserved in electronic or written form, including but not limited to correspondence, documents, data, videotapes, audio tapes, faxes, files, guidance, guidelines, evaluations, instructions, analyses, memoranda, agreements, notes, orders, policies, procedures, protocols, reports, rules, technical manuals, technical specifications, training manuals, or studies.

<sup>3</sup> The term "activities" as used herein includes, but is not limited to, any activities of the Requestors or any of their employees, members, officers or directors described in Section I 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 or any of their employees, members, officers or directors or their activities 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 listservs).

3. Any records relating or referring to how, why or when any of the Requestors or any of their employees, members, officers or directors or their activities was selected to be a subject of monitoring, surveillance, observation, questioning, interrogation, investigation, infiltration, and/or collection of information;
4. Any records relating or referring to how monitoring, surveillance, observation, questioning, interrogation, investigation or infiltration of, and/or collection of information about, any of the Requestors or any of their employees, members, officers or directors or their activities was or will be conducted;
5. Any records relating or referring to the names of any other federal, state, or local government agencies participating in any monitoring, surveillance, observation, questioning, interrogation, investigation or infiltration of, and/or collection of information about, any of the Requestors or any of their employees, members, officers or directors or their activities;
6. Any records relating or referring to the specific role of the National Joint Terrorism Task Force or any local Joint Terrorism Task Force or any other Joint Terrorism Task Force or Foreign Terrorist Tracking Task Force, the Office of Law Enforcement Coordination, The National Intel Share (NIS) Project, or any formal or informal group, gathering or coalition involving one or more government employees, representative or agents or any member, representative or agent of or for any of same in any monitoring, surveillance, observation, questioning, interrogation, investigation or infiltration of, and/or collection of information about, any of the Requestors or any of their employees, members, officers or directors or their activities;
7. Any records relating or referring to the specific role of any federal, state, or local government agency, employee, representative or agent participating in any monitoring, surveillance, observation, questioning, interrogation, investigation or infiltration of, and/or collection of information about, any of the Requestors or any of their employees, members, officers or directors or their activities;
8. Any records relating or referring to how records about any of the Requestors or any of their employees, members, officers or directors or their activities have been, will be, or might be used;
9. Any policies or procedures for analyzing records about any of the Requestors or any of their employees, members, officers or directors or their activities;
10. Any policies or procedures for cross-referencing records about any of the Requestors or any of their employees, members, officers or directors or their activities with information contained in any database;



11. Any policies or procedures for cross-referencing records about any of the Requestors or any of their employees, members, officers or directors or their activities with information about any other organizations or individuals;
12. Any policies or procedures for cross-referencing records about any of the Requestors or any of their employees, members, officers or directors or their activities with any other information not covered in numbers 10 and 11 above;
13. Any policies or procedures regarding retention of records about any of the Requestors or any of their employees, members, officers or directors or their activities;
14. Any records referring or relating to the destruction of records about any of the Requestors or any of their employees, members, officers or directors or their activities, including any policies permitting or prohibiting the destruction of records;
15. Any records referring or relating to how records about any of the Requestors or any of their employees, members, officers or directors or their activities were destroyed or might be destroyed in the future;
16. Any records referring or relating to the recipient(s) of records about any of the Requestors or any of their employees, members, officers or directors or their activities;
17. Any policies or procedures in place to protect the privacy of records that refer or relate to the Requestors or any of their employees, members, officers or directors or their activities;
18. Any records relating or referring to how, why or when monitoring, surveillance, observation, questioning, interrogation, investigation or infiltration of, and/or collection of information about any of the Requestors or any of their employees, members, officers or directors or their activities was or will be suspended or terminated.
19. Any matching agreements which may be between, among or relate to the FBI, the National Joint Terrorism Task Force, any Joint Terrorism Task Force or Foreign Terrorist Tracking Task Force, the Office of Law Enforcement Coordination, the National Intel Share (NIS) Project, the Michigan State Police, any formal or informal group, gathering or coalition involving one or more government employees, representative or agents or any member, representative or agent of or for any of same or any of them and serve as a purported basis for the exchange of information and/or records between or among any of them.

### **III. Limitation of Processing Fees and Waiver of Search and Review Fees**

The Requestors request a limitation of processing fees pursuant to 5 U.S.C. § 52(a)(4)(A)(ii)(II), which states that “fees shall be limited to reasonable standard charges for document duplication when records are not sought for commercial use and the request is made by...a representative of the news media....,” and of search and review fees under 28 C.F.R. §§ 16.11(c)(1)(i), 16.11(d)(1) (search and review fees shall not be charged to “representatives of the news media.”). As a “representative of the news media,” the ACLU fits within this statutory and regulatory mandate. Fees associated with responding to this request should, therefore, be limited accordingly.

The ACLU meets the definition of a representative of the news media because it is “an entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn raw materials into a distinct work, and distributes that work to an audience.” National Sec. Archive v. Department of Def., 880 F.2d 1381, 1387 (D.C. Cir. 1989). In addition, searching for and furnishing the records requested will primarily benefit the general public.

The ACLU is an organization dedicated to the defense of civil liberties. Dissemination of information to the public is a critical and substantial component of the ACLU’s mission and work. Specifically, the ACLU publishes or distributes newsletters, news briefings, right-to-know documents, and other educational and informational materials that are broadly disseminated to the public. Such material is widely available to everyone, including individuals, tax-exempt organizations, not-for-profit groups, law students and faculty, for no cost or for a nominal fee through its public education department. The ACLU also disseminates information through its heavily subscribed web site: <http://www.aclumich.org/>. The web site addresses civil liberties issues in depth, provides features on civil liberties issues in the news, and contains many hundreds of documents relating to the issues on which the ACLU is focused. This website and the website of its national organization, <http://www.aclu.org/>, specifically include features on information obtained through the FOIA. *See, e.g.,* [www.aclu.org/patriot\\_foia](http://www.aclu.org/patriot_foia) and *see* [www.aclu.org/torturefoia](http://www.aclu.org/torturefoia). The ACLU also publishes an electronic newsletter, which is distributed to subscribers by e-mail. In addition to the Detroit ACLU office, there are 9 ACLU branch offices located throughout Michigan. These offices further disseminate ACLU material to local residents, schools and organizations through a variety of means including websites, publications and newsletters. Further, the ACLU makes archived material available to the public at various locations. Also, ACLU publications are often disseminated to relevant groups across the country that then further distribute them to their members or to other parties.

Depending on the results of this request, the ACLU plans to “disseminate the information” gathered by the Request “among the public” through these kinds of publications in these kinds of channels. The ACLU is therefore a “news media entity.” *Cf.* Electronic Privacy Information Ctr. v. Department of Defense, 241 F.Supp.2d 5, 10-15 (D.D.C. 2003) (finding non-profit public interest group that disseminated an electronic newsletter and published books was a “representative of the media” for purposes of the FOIA).

Finally, disclosure is not in the ACLU’s commercial interest. The ACLU is a “non-profit, non-partisan, public interest organization.” *See* Judicial Watch v. Rossotti, 326 F.3d 1309, 1310 (D.C. Cir. 2003) In addition, the ACLU will make any information disclosed as a result of this FOIA and MFOIA request available to the public at no cost.

#### **IV. Waiver of all Costs Under the FOIA and the MFOIA**

The Requestors additionally request a waiver of all fees associated with responding to this request pursuant to 5 U.S.C. §552(a)(4)(A)(iii) (“Documents shall be furnished without any charge . . . if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.”) and pursuant to MCL 15.234(1) (“A search for a public record may be conducted or copies of public records may be furnished without charge or at a reduced charge if the public body determines that a waiver or reduction of the fee is in the public interest because searching for or furnishing copies of the public record can be considered as primarily benefiting the general public.” 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.’”)] and the intent of the Michigan legislature in enacting the MFOIA provision cited above.

Disclosure of the requested information is in the public interest and will primarily benefit the general public. This request and disclosure of the requested information will further public understanding of government conduct; specifically, the monitoring, surveillance, and infiltration of organizations by the FBI, the MSP and other governmental agencies and organizations on the basis of national origin, racial and/or ethnic background, religious affiliation, organizational membership, political views or affiliation, or participation in protest activities or demonstrations. This type of government activity concretely affects many individuals and groups and implicates and may threaten 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 such matters as the Department of Justice’s recent decision to relax guidelines that previously restricted the FBI’s ability to spy on organizations without a threshold showing of suspected criminal activity. These restrictions were created in response to the Hoover-era FBI’s scandalous spying on politically active individuals and organizations, despite the complete lack of evidence that such individuals and organizations had been involved in any unlawful behavior. Understanding the current scope of the FBI’s surveillance and infiltration of law-abiding organizations and the extent and nature of the involvement of other governmental agencies, entities and personnel in connection with such activities is, therefore, crucial to the public’s interest in understanding the consequences of the Department of Justice’s important change in policy. As a three-member panel of the 11th U.S. Circuit Court of Appeals recently ruled “We cannot simply suspend or restrict civil liberties until the war on terror is over, because the war on terror is unlikely ever to be truly over. . . Sept. 11, 2001, already a day of immeasurable tragedy, cannot be the day liberty perished in this country.” Bourgeois v. Peters, No. 02-16886 (Oct. 15, 2004).

This topic is one of widespread public concern at this unique historical moment as the wide array of newspaper articles referenced in Section V below illustrate. It is of particular concern to citizens and organizations in the metropolitan Detroit area. According to an article in The Washington Times, October 24, 2001:

This city (Detroit) has been cited in a state police report as a "major financial support center for many Middle East terrorist groups," setting the sizable Arab-American community on edge. The report, presented to the Michigan Legislature last week, also says that "members of [terrorist] groups commit criminal acts to raise financial resources to support terrorist operations overseas. ... [I]t is also conceivable that sleeper cells may be located in [the Southeast] area of the state. Southeast Michigan is known as a lucrative recruiting area and potential support base for [terrorist] groups." The 22-page report, obtained by The Washington Times, says that 374 "potential threat elements" were located in Michigan, home to the largest Arab population outside the Middle East. A state police spokesman said yesterday that the document was not intended to be public, but instead was part of an effort to solicit federal money for terrorism-response programs... The report was compiled over two years through data from law enforcement agencies from all 83 counties in the state, as well as several local jurisdictions. "According to the Detroit Field Office, FBI, most of the 28 [terrorist] groups recently identified by the State Department, some of which are known to target U.S. citizens and U.S. interests, are represented in Michigan," the report states. "Examples include such well-known terrorist organizations as Hezbollah, Hamas, Islamic Jihad, Egyptian Brotherhood, Al-Gama'at, Al-Islamiyya, and Osama bin Laden's terrorist organization - Al Qaeda."

In addition, disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the relationship between federal and local law enforcement agencies with regard to the operations and activities of the National and local Joint Terrorism Task Forces. The public has an interest in understanding this relationship as it affects both national and local law enforcement practices and their application to the public. In addition, the public has an increased interest in such understanding since this relationship has, to the best of our knowledge, changed over the course of the last several years. Disclosure of the requested information is also in the public interest because such information may provide the public with information about overly aggressive and/or discriminatory policing.

As a nonprofit 501(c)(3) organization and "representative of the news media" as discussed in Section III, the ACLU is well-situated to disseminate information it gains from this request to the general public as well as to immigrant, religious, politically active, and other targeted communities, and to groups that protect constitutional rights. Because the American Civil Liberties Union meets the test for a fee waiver, fees associated with responding to FOIA requests are regularly waived for the organization.<sup>4</sup>

The records requested are not sought for commercial use, and the Requestors plan to disseminate the information disclosed as a result of this FOIA and MFOIA request through the channels described in Section III. As also stated in Section III, the ACLU will make any

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<sup>4</sup> For example, the Department of Health and Human Services granted a fee waiver to the American Civil Liberties Union with regard to a FOIA request submitted in August of 2004. In addition, the Office of Science and Technology Policy in the Executive Office of the President said it would waive the fees associated with a FOIA request submitted by the organization in August 2003. In addition, three separate agencies – the Federal Bureau of Investigation, the Office of Intelligence Policy and Review, and the Office of Information and Privacy in the Department of Justice – did not charge the organization fees associated with a FOIA request submitted by the organization in August 2002.

information disclosed as a result of this FOIA and MFOIA request available to the public at no cost.

#### V. **Expedited Processing Request**

Expedited processing is warranted where there is “an urgency to inform the public about an actual or alleged federal government activity” by organizations “primarily engaged in disseminating information” 28 C.F.R. § 16.5(d)(1)(ii).<sup>5</sup> This request implicates an urgent matter of public concern; namely, the potentially extensive monitoring and surveillance of individual citizens, as well as political, religious, and community organizations, throughout the nation by the FBI, "Task Forces" of various sorts and other agencies and entities as well as such activity by the MSP, various "Task Forces" and other state and local agencies and entities in Michigan. Such government activity may infringe upon the public's free speech, free association, and privacy rights, which are guaranteed by the First, Fourth, Fifth, and Fourteenth Amendments to the United States Constitution. Requests for information bearing upon potential Constitutional violations require an immediate response so that any violations cease, future violations are prevented, and any chilling effect on public participation in potentially targeted groups and/or political activity is halted.

In addition, this request deals with potential disparate treatment of groups on the basis of categories such as religion, nationality and political viewpoint. Such potential unequal treatment is a matter necessitating immediate attention. There is also intense public concern, particularly among potentially targeted groups, about the actual or alleged federal government activity addressed by this request. This intense public concern is illustrated by the selection of news coverage detailed in the paragraph below.

A requestor may also demonstrate compelling need by showing that the information sought relates to “a matter of widespread and exceptional media interest in which there exist possible questions about the government's integrity which affect public confidence.” 28 C.F.R. § 16.5(d)(1)(iv). The instant request clearly meets these standards as the request relates to possible violations of Constitutional rights by federal law enforcement and potential targeting of groups by federal law enforcement based on illicit categories of political viewpoint, race, religion and nationality. The exceptional media interest in this issue is reflected in widespread news coverage at both the local and national level. *See e.g.* Daily Star Staff, *American Arabs Concerned Over FBI's 'October Plan,'* www.dailystar.com.lb, October 6, 2004; David Shepardson, *FBI Agents Hunt for Terror Leads: Agency Combs Muslim Neighborhoods for Help in Preventing Election Day Attack,* The Detroit News, October 1, 2004; Eric Lichtblau, *Subpoena Seeks Records About Delegate Lists on Web,* NY Times, August 30, 2004 at P10; Alex Bradley and John Mayer, *The War at Home: Nationwide Crackdown on Activists Part,* www.saveourliberties.com, September 2, 2004; Eric Lichtblau, *Protestors at Heart of Debate on Security vs. Civil Rights,* NY Times, August 27, 2004 at A9; Larry Abramson, *FBI Questioning Political Demonstrators,* NPR.org; Susan Greene, *Activists Decry Pre-Convention Security Tactics: Questions by FBI, The Feds Say They're Trying to Avoid Terror Threats, But Many People Say the Steps Veer Toward Intimidation,* The Denver Post, August 26, 2004 at A-08; August 17, 2004; Eric Lichtblau, *F.B.I. Goes Knocking for Political Troublemakers,* NY Times, August 16, 2004 at A1; Amy Herder, *Teaching the Silent Treatment,* The Denver Post, August 8,

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<sup>5</sup> The ACLU is “primarily engaged in disseminating information,” as discussed in Sections III and IV.

2004 at C-01; Jayashri Srikantiah, *Few Benefits to Questioning Targeted Groups*, San Francisco Chronicle, August 6, 2004; Camille T. Taiara, *New F.B.I. Witch-Hunt*, San Francisco Bay Guardian, August 4-10, 2004; Kelly Thornton, *F.B.I.'s Home Visits Have Some Muslims Feeling Harassed, Alienated*, Signonsandiego.com, August 4, 2004; Richard Schmitt and Donna Horowitz, *FBI Starts to Question Muslims in U.S. About Possible Attacks*, latimes.com, July 18, 2004; Karen Abbott, *FBI's Queries Rattle Activist*, www.rockymountainnews.com, July 27, 2004; Mary Beth Sheridan, *Interviews of Muslims to Broaden*, www.washingtonpost.com, July 17, 2004; Jeff Eckhoff and Mark Siebert, *Group Fights Anti-war Inquiry*, The Des Moines Register, February 7, 2004; Jeff Eckhoff and Mark Siebert, *Anti-war Inquiry Unrelated to Terror*, *The Des Moines Register*, February 10, 2004 at 1A; Jeff Eckhoff and Mark Siebert, *Group Fights Anti-war Inquiry*, The Des Moines Register, February 7, 2004; Monica Davey, *An Antiwar Forum in Iowa Brings Federal Subpoenas*, NY Times, February 10, 2004 at A14; Monica Davey, *Subpoenas on Antiwar Protest Are Dropped*, NY Times, February 11, 2004 at A18; Michelle Goldberg, *A Thousand J. Edgar Hoovers*, www.salon.com, February 12, 2004; Michelle Goldberg, *Outlawing Dissent*, www.salon.com, February 11, 2004; Kerri Ginis, *Peace Fresno Seeks Damages*, The Fresno Bee, February 28, 2004; Eric Lichtblau, *F.B.I. Scrutinizes Antiwar Rallies*, www.nytimes.com, November 23, 2003.

The potential targeting of individuals and groups by the federal government on the basis of group membership, religion, political protest, nationality, and other similar categories raises many questions about the government's integrity and affects public confidence in a profound way. The government's – and particularly the FBI's and MSP's – treatment of persons on the basis of their political viewpoints is a critical issue with a long history. 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 and in law enforcement and the legal system. This issue has been of concern to lawmakers, including three members of the House of Representatives. *See, e.g.*, Eric Lichtblau, *Inquiry into F.B.I. Question Is Sought*, NY Times A16, August 18, 2004.

We reserve the right to supplement and amend this request.

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

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Michael J. Steinberg

Dated: December 2, 2004