

investigative reporter who has published several stories pertaining to national security and/or law enforcement matters.

According to 5 U.S.C. § 552(a)(4)(A)(ii), codifying the ruling of *Nat'l Security Archive v. Dep't of Defense*, 880 F.2d 1381 (D.C. Cir. 1989), the term "a representative of the news media" means any person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience.

I have a clear intent to "publish[ ] or otherwise disseminate[ ] information to the public." *Id.* at 1386 (quoting the following legislative history: 1) "It is critical that the phrase 'representative of the news media' be broadly interpreted if the act is to work as expected. . . . In fact, any person or organization which regularly publishes or disseminates information to the public . . . should qualify for waivers as a 'representative of the news media.'" 132 Cong. Rec. S14298 (daily ed. Sept. 30, 1986) (emphasis in original quotation); 2) "A request by a reporter or other person affiliated with a newspaper, magazine, television or radio station, or other entity that is in the business of publishing or otherwise disseminating information to the public qualifies under this provision." 132 Cong. Rec. H9463 (Oct. 8, 1986) (emphasis in original quotation)). Therefore, in accordance with the Freedom of Information Act and relevant case law, I, Jason Leopold, should be considered a representative of the news media.

I am also requesting a public interest fee waiver. There can be no question that the information sought would contribute to the public's understanding of government operations or activities and is in the public interest. These records pertain to highly controversial detainee interrogation practices; it would be difficult to imagine a way in which they would not contribute to the public's understanding of government operations or activities.

Please ensure that, in accordance with the DC Circuit's ruling in *Chambers v. Dep't of the Interior*, 568 F.3d 998 (D.C. Cir. 2009), all records potentially responsive to this FOIA request are immediately preserved from destruction until the final resolution of this FOIA action.

????????

Destruction of potentially responsive records after the receipt of a FOIA request is considered "contumacious conduct" by the DC Circuit. See *id.* at 1004.

Your agency is required by law to respond to this request within 20 working days, and it must render a determination on the request for expedited processing within 10 calendar days. Failure to timely comply may result in the filing of a civil action against your agency in a United States District Court.

Please provide any records produced in response to this request in electronic (soft-copy) form.

Your cooperation in this matter would be appreciated. If you wish to discuss this request, please do not hesitate to contact me.

Fee Waiver:

I, Jason Leopold, qualify as a representative of the news media. I am an investigative reporter who has published several stories pertaining to national security and/or law enforcement matters.

According to 5 U.S.C. § 552(a)(4)(A)(ii), codifying the ruling of *Nat'l Security Archive v. Dep't of Defense*, 880 F.2d 1381 (D.C. Cir. 1989), the term "a representative of the news media" means any person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience.

I have a clear intent to "publish[ ] or otherwise disseminate[ ] information to the public." *Id.* at 1386 (quoting the following legislative history: 1) "It is critical that the phrase 'representative of the news media' be broadly interpreted if the act is to work as expected. . . . In fact, any person or organization which regularly publishes or disseminates information to the public . . . should qualify for waivers as a 'representative of the news media.'" 132 Cong. Rec. S14298 (daily ed. Sept. 30, 1986) (emphasis in original quotation); 2) "A request by a reporter or other person affiliated with a newspaper, magazine, television or radio station, or other entity that is in the business of publishing or otherwise disseminating information to the public qualifies under this provision." 132 Cong. Rec. H9463 (Oct. 8, 1986) (emphasis in original quotation)). Therefore, in accordance with the Freedom of Information Act and relevant case law, I, Jason Leopold, should be considered a representative of the news media.

I am also requesting a public interest fee waiver. There can be no question that the information sought would contribute to the public's understanding of government operations or activities and is in the public interest. These records pertain to highly controversial detainee interrogation practices; it would be difficult to imagine a way in which they would not contribute to the public's understanding of government operations or activities.

FOIA Request ID: 1983

FOIA Request submitted by:

Mr. Jason Leopold

Submitted on: August 22, 2013 : 18:14 - America/New\_York

Investigative Journalist



United States

Request:

Re: FOIA Request – ACLU followup To Whom It May Concern:

On 7 October 2003 the American Civil Liberties Union (“ACLU”) and four other non- profit organizations submitted the attached Freedom of Information Act (“FOIA”) request. This is a FOIA request for copies of all records meeting the description of the ACLU request created since 20 January 2009. In other words, the intent of this request is to obtain records of the same genre as those sought by the ACLU which were created since President Obama took office.

This request is to be directed to the same agency components which performed your agency’s search in response to the ACLU’s request.

If you deny all or part of this request, please cite the specific exemptions you believe justify your refusal to release the information or permit the review and notify us of your appeal procedures available under the law. In excising material, please “black out” rather than “white out” or “cut out.” In addition, I draw your attention to President Obama’s 21 January 2009 Memorandum for the Heads of Executive Departments and Agencies, directing federal agencies to adopt a presumption in favor of disclosure and stating that government information should not be kept confidential “merely because public officials might be embarrassed by disclosure, because errors and failures might be revealed, or because of speculative or abstract fears.”

I, Jason Leopold, qualify as a representative of the news media. I am an

(b)(6)

AUG 26 2013