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By Facsimile, Certified Mail, Return Receipt Requested

January 29, 2009

Chair Stephen Rohde

President Douglas Mirell

Chairs Emeriti

Danny Goldberg Allan K. Jonas Burt Lancaster* Irving Lichtenstein, MD* Jarl Mohn Laurie Ostrow* Stanley K. Sheinbaum *deceased

Chief Executive Officer Ramona Ripston

Chief Counsel Mark D. Rosenbaum

Chief Operating Officer Heather Carrigan

Chief Financial Officer Brenda Maull

Communications Director Gordon Smith

Development Director Tracy Rice

Legal Director Hector O. Villagra

Managing Attorney & Manheim Family Attorney for First Amendment Rights Peter J. Eliosberg Department of Justice FOIA/PA Mail Referral Unit Department of Justice Room 115, LOC Building Washington, DC 20530-0001 Fax: (301) 341-0772

> Federal Bureau of Investigation David M. Hardy, Chief Record/Information Dissemination Section Records Management Division 170 Marcel Drive Winchester, VA 22602-4843 (540) 868-4591

Federal Bureau of Investigation Los Angeles Field Office Attn: FOIA Office Suite 1700, FOB 11000 Wilshire Blvd. Los Angeles, CA 90024-3672

INTERPOL – United States National Central Bureau Allison Tanaka FOIA/PA Specialist Office of General Counsel Washington, DC 20530-0001 (202) 616-9000

National Security Division Arnetta James FOIA Initiatives Coordinator Room 6150, 950 Pennsylvania Avenue, N.W. Washington, DC 20530-0001 (202) 307-3525

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Department of State Margaret P. Grafeld Office of Information Programs and Services A/ISS/IPS/RL U. S. Department of State Washington, D. C. 20522-6001 Fax: (202) 261-8579

Central Intelligence Agency

Adolfo Tarasiuk, Jr. Chief Information Officer Washington, D.C. 20505

Department of Defense Jim Hogan Defense Freedom of Information Policy Office 1155 Defense Pentagon Washington, D.C. 20301-1155 Fax: (703) 696-4506

> Defense Intelligence Agency Alesia Y. Williams ATTN: DIAC, DAN-1A Bldg. 6000 Washington, D.C. 20340-5100 Fax: (301) 394-5356 E-mail: <u>foia@dia.mil</u>

Defense Security Service Les Blake Chief, Office of FOIA and Privacy, GCF 1340 Braddock Place Alexandria, VA 22314-1651 Fax: (703) 325-5341 E-mail: <u>leslie.blake@mail.dss.mil</u>

National Security Agency Marianne Stupar FOIA Requester Servivce Center/DJP4 9800 Savage Road, Suite 6248 Ft. George G. Meade, MD 20755-6248 Fax: (301) 688-4762

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Office of the Inspector General Dave Henshall Senior Advisor, Information and Privacy 400 Army Navy Drive, Suite 1021 Arlington, VA 22202-4704 Fax: (703) 602-0294

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Department of Homeland Security

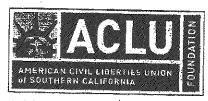
Catherine M. Papoi Deputy Chief FOIA Officer Director, Disclosure & FOIA The Privacy Office 245 Murray Drive, S.W. STOP-0550 Washington, DC 20528-0550 Fax: (703) 235-0443 E-mail: foia@dhs.gov

> Bureau of Customs and Border Protection Mark Hanson Director FOIA Division 799 9th Street, NW Mint Annex Washington, DC 20229 Fax: (202) 325-0154

United States Immigration and Customs Enforcement Catrina Pavlik-Keenan 800 N. Capitol Street Fifth Floor, Suite 585 Washington, D.C. 20536 Fax: (202) 732-0310

Transportation Security Administration Kevin J. Janet FOIA Officer, TSA-20 601 South 12th Street Arlington, VA 22202-4220 Fax: (571) 227-1406

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Under Secretary Office of Intelligence and Analysis U.S. Department of Homeland Security FOIA Officer / Requester Service Center- Quinton Mason Washington, D.C. 20528 Fax: (202) 282-8191 Email: <u>Quinton.mason@dhs.gov</u>

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Managing Attorney & Manheim Family Attorney for First Amendment Rights Peter J. Eliasberg Office of the Director of National Intelligence Washington, D.C. 20511 Fax: (703) 275-1299 Email: <u>dni-foia@ugov.gov</u>

Re: <u>Request Under Freedom of Information Act and Privacy Act</u> Expedited Processing Requested

Dear FOIA Officer:

This letter constitutes a request for records made pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, and the Privacy Act, 5. U.S.C. § 552a, by the American Civil Liberties Union Foundation of Southern California (ACLU/SC) on behalf of (hereinafter "Requestors"). See Exhibit A (Privacy Act authorizations for Requestors).

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The ACLU/SC and Requestors make this request for records to obtain

information about the federal government's surveillance, monitoring, questioning investigation, and participation in the

THE REQUESTORS

The ACLU/SC is a non-profit organization dedicated to defending and securing the rights granted by the U.S. Constitution and Bill of Rights. ACLU/SC's work focuses on the First Amendment, equal protection, due process, privacy, and furthering civil rights for disadvantaged groups. As part of its work, ACLU/SC disseminates information to the public through newsletters, news briefings, "Know Your Rights" documents, and other educational and informational materials.

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THE REQUEST FOR RECORDS

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We seek disclosure of **any** records¹ from January 1, 1998 to the present, which were prepared, received, transmitted, collected and/or maintained by the Department of Justice, the Department of State, the Central Intelligence Agency, the Department of Homeland Security, the Department of Defense and **any** of their sub-agencies or divisions relating to or concerning:²

(4) Hapimotors (a.k.a Honda Acura Palace or HondAcura Palace). The business is currently located at 1848 East 55th St, Los Angeles, CA 90058 and maintains a website at <u>www.hapimotors.com</u>.

² The term "concerning" means referring to, describing, evidencing, commenting on, responding to, showing, analyzing, reflecting, or constituting.

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¹ The term "records" as used herein includes but is not limited to all communications preserved in electronic or hard copy form, including but not limited to correspondence, documents, data, videotapes, audio tapes, CDs, DVDs, floppy disks, zip disks, faxes, files, e-mails, notes (including handwritten notes), letters, summaries or records of personal conversations, reports and/or summaries of interviews, reports and/or summaries of investigations, guidelines, evaluations, instructions, analyses, memoranda, agreements, orders, prescriptions, charts, expressions of statements of policy, procedures, protocols, reports, rules, training manuals, or studies.



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As is apparent from the plain language of this request, we seek not only the contents of any primary or main files on the Requestors and Hapimotors, but also any records relating to or concerning any of the Requestors or Hapimotors that may be cross-listed, cross-referenced or contained in the main file pertaining to another individual or entity. The request is also meant to include, but not be limited to the entirety of any document that includes the name of any of the requestors.

SUGGESTED SEARCH TERMS FOR ELECTRONIC SEARCHES

To enable an adequate search of all electronic databases, we suggest that you use the following search terms, among others, to locate responsive records:

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23. Honda Acura Palace

- 24. HondAcura Palace
- 25. Hapimotors
- 26. Hapimotors.com
- 27. Authentic auto parts

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REQUEST FOR EXPEDITED PROCESSING

Expedited processing is warranted when there is a "compelling need" for the information. 5 U.S.C. § 552(a)(6)(E). For requests made by organizations "primarily engaged in disseminating information," "an urgency to inform the public about actual or alleged federal government activity" constitutes a "compelling need." 5 U.S.C. § 552(a)(6)(E)(v)(11),³

This request implicates a matter of urgent public concern: namely, the nature and extent of the federal government's surveillance and detention of American citizens in the name of national security. Information regarding the federal government's handling

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information is of urgent public concern as the federal government seeks to improve its surveillance and investigative techniques in the face of new terrorism threats, while balancing concerns for civil liberties.

This request is also made by an organization, the ACLU/SC, "primarily engaged in disseminating information." 5 U.S.C. 552(a)(6)(E)(v)(II); 6 C.F.R. 5.5(d)(1)(ii).

³ See also Amer. Civil Liberties Union v. U.S. Dep't of Defense, 2006 WL 1469418 (N.D. Cal. 2006) (ordering expedited processing of a request for records under the FOIA statute where plaintiffs had alleged a compelling need to know about the Department of Defense's practice of gathering information on political protests in the United States); *Washington Post v. Dep't of Homeland Sec.*, 459 F. Supp. 2d 61, 66 (D.C.C. 2006) (holding that expedited processing of a request for information from the Secret Service about who visited Vice-President Cheney during CIA-leak investigation was proper under the statute where plaintiff had asserted "statutory entitlement to expedited review of the FOIA request, based on the statutory predicate that the plaintiff has a 'compelling need' for the information."); *Elec. Privacy Info. Ctr. v. Dep't of Justice*, 416 F. Supp. 2d 30 (D.D.C.2006) (granting a preliminary injunction and ordering expedited processing and disclosure of documents concerning the Bush Administration's policy of conducting surveillance of domestic communications).

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See American Civil Liberties Union v. Dep't of Justice, 321 F. Supp. 2d 24, 30 n.5 (D.D.C. 2004) (non-profit public interest group that "gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw material into a distinct work, and distributes that work to an audience," is "primary engaged in disseminating information"). Dissemination of information to the public is a critical and substantial component of the ACLU/SC's mission and work. The ACLU/SC disseminates information to the public through newsletters, news briefings, "Know Your Rights" documents, and other educational and informational materials. ACLU/SC also disseminates information to individuals, tax-exempt organizations, not-for-profit groups, and members through its website, http://www.aclu-sc.org. The ACLU/SC website homepage includes a section for news, along with links to information about current issues of public interest. The website also contains archives of press releases and other documents demonstrating the thorough extent to which the ACLU/SC disseminates information to the public on numerous issues. See www.aclu-sc.org/news stories.

The ACLU/SC also shares information with the national ACLU office. The ACLU publishes information through multiple outlets including newsletters, action alerts, videos, and other media. ACLU publications are disseminated across the country to individuals and organizations. The ACLU also publishes an electronic newsletter, which is distributed to subscribers by e-mail, and maintains a website of civil rights and civil liberties information at http://www.aclu.org.

Expedited processing is also warranted because 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 nublic confidence." 28 C.F.R. § 16.5(d)(1)(iv). The instant request relates to a matter of exceptional media interest, which is reflected in the widespread news coverage of his case in local, national and international media outlets.

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Managing Attorney & Manheim Family Attorney for First Amendment Rights Peter J. Eliasberg Accordingly, the Requestors are entitled to expedited processing of this request.

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LIMITATION OR WAIVER OF SEARCH AND REVIEW FEES

We request a limitation of processing fees pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II) ("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 6 C.F.R. § 5.11(d)(1) (search fees shall not be charged to "representatives of the news media"). The information sought in this request is not sought for a commercial purpose. The Requestors include a non-profit organization who intends to disseminate the information gathered by this request to the public at no cost.

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." 5 U.S.C. 552(a)(4)(A)(ii). The statutory definition does not require that the requester is a member of the traditional media. As long as the requester meets the definition in any aspect of its work, it qualifies for limitation of fees under this section of the statute.

For the reasons stated above with respect to expedited processing, the ACLU/SC qualifies as a "representative of the news media" under the statutory definition, because the ACLU/SC routinely gathers information of interest to the public, uses editorial skills to turn it into distinct work, and distributes that work to the public. *See Electronic Privacy Information Center v. Department of Defense*, 241 F. Supp. 2d 5 (D.D.C. 2003) (non-profit organization that gathered information and published it in newsletters and otherwise for general distribution qualified as representative of news media for purpose of limiting fees). Accordingly, any fees charged must be limited to duplication costs.

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WAIVER OR REDUCTION OF ALL COSTS

We request a waiver or reduction of all costs 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"); see also 6 C.F.R. § 5.11(k).

The public interest fee waiver provision "is to be liberally construed in favor of waivers for noncommercial requesters." *McClellan Ecological Seepage Situation v. Carlucci*, 835 F.2d 1282, 1284 (9th Cir. 1987). The Requestors need not demonstrate that the records would contain evidence of misconduct. Instead, the question is whether the requested information is likely to contribute significantly to public understanding of the operations or activities of the government, good or bad. *See Judicial Watch, Inc. v. Rossotti*, 326 F.3d 1309, 1314 (D.C. Cir. 2003).

Disclosure of the information sought is in the public interest and will contribute significantly to public understanding of the federal government's policies and practices of monitoring, surveillance, questioning, and participation in overseas detention and torture of American citizens. As shown by the news reporting cited above, these issues are of intense public concern. The requested records relate directly to operations or activities of the government that potentially impact or infringe fundamental rights and freedoms. The records are not sought for commercial use, and the Requestors plan to disseminate the information disclosed through print and other media to the public at no cost, and through meetings with members and affected communities. As demonstrated above, the Requestors have both the intent and ability to convey any information obtained through this request to the public.

The Requestors state "with reasonable specificity that [their] request pertains to operations of the government," and "the informative value of a request depends not on there being certainty of what the documents will reveal, but rather on the requesting party having explained with reasonable specificity how those documents would increase public knowledge of the functions of the government." *Citizens for Responsibility and Ethics in Washington v. U.S. Dept. of Health and Human Services*, 481 F. Supp. 2d 99, 107-109 (D.D.C. 2006).

In the event a waiver or reduction of costs is denied, please notify me in advance if the anticipated costs exceed \$100.

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CONCLUSION

If this request is denied in whole or part, please justify all deletions by reference to specific FOIA exemptions. We expect you to release all segregable portions of otherwise exempt material. For example, we expect you to redact names of individuals for whom privacy waivers are not enclosed, if such redaction is required by the Privacy Act or other law, and release any otherwise disclosable records as redacted. We also expect that this FOIA request will be processed in accordance with the presumption of disclosure and President Obama's directive to federal agencies on January 26, 2009. Pres. Obama, Memo. for the Heads of Exec. Offices and Agencies, Freedom of Information Act, 74 Fed. Reg. 4683 (Jan. 26, 2009) ("The Freedom of Information Act should be administered with a clear presumption: In the face of doubt, openness prevails. The Government should not keep information confidential merely because public officials might be embarrassed by disclosure, because errors and failures might be revealed, or because of speculative or abstract fears.").

We reserve the right to appeal a decision to withhold any information, or to deny expedited processing or a waiver of fees. We look forward to your reply to the request for expedited processing within ten (10) calendar days, as required under 5 U.S.C. § 552(a)(6)(E)(ii)(I). Notwithstanding your decision on the matter of expedited processing, we look forward to your reply to the records request within twenty (20) business days, as required under 5 U.S.C. § 552(a)(6)(A)(I).

If you have questions, please contact Jennie Pasquarella at 213-977-5236 or via e-mail at <u>ipasquarella@aclu-sc.org</u>. Thank you in advance for your timely consideration of this request. Please furnish records as soon as they are identified to the undersigned at:

ACLU of Southern California 1313 W. Eighth Street Los Angeles, CA 90017

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

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Sincerely,	l
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Pasquarella	Ì
aff Attorney	7
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AUTHORIZATION

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I, hereby authorize attorneys from the ACLU of Southern California, 1313 West 8th Street, Los Angeles, CA 90026, to submit a request under the Freedom of Information Act and the Privacy Act to the federal government and to receive responsive documents on my behalf.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

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I declare under penalty of perjury that the foregoing is true and correct.

(b)(6) Executed on September $\underline{04}$, 2009, in (b)(6) Name (print) (b)(6) Address (b)(6)My Known to me or proved to me the basis of satisfactory evidence to be the City, State Zip person(s) (b)(6)ALL PERCHAR (b)(6) Signature 14 CO 1 HUSHMET ALI KHAN Commission # 1822868 illery Public - California Los Angeles County Nm. Exokras Nov 16, 2012 Approved for Release: 2021/12/07 C05505927

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I declare under penalty of perjury that	the foregoing is true and correct.	
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