

THE NATIONAL CENTER



FOR PUBLIC POLICY RESEARCH

Amy M. Ridenour

Chairman

David A. Ridenour

President

Via Electronic Mail to: DOJ.OIP.Initial.Requests@usdoj.gov – Return Receipt Requested

April 13, 2012

Carmen L. Mallon
Chief of Staff
Office of Information Policy
Department of Justice
Suite 11050
1425 New York Avenue, N.W.
Washington, DC 20530-0001

RE: FREEDOM OF INFORMATION ACT (FOIA) REQUEST, Attorney General Eric Holder's Lyndon Baines Johnson Library & Museum Speech

Dear Ms. Mallon:

On behalf of the National Center for Public Policy Research, a 501(c)(3) public policy organization, and under the Freedom of Information Act (FOIA), 5 U.S.C. §552, as amended, please provide within 20 days copies of any and all records, emails, transcripts, materials or other internal or external documents created by or received by the Department of Justice (DOJ) as described below and required by federal law.

This request seeks any and all communications between Attorney General Eric Holder (or his staff) and outside groups or individuals in connection with his December 13, 2011 speech at the Lyndon Baines Johnson Library & Museum (LBJ speech), and explanations of subsequent policy changes.

DOJ should search all documents dated from August 1, 2011 through the date that you fully comply with all relevant elements of this request.

Please provide copies of any and all documents meeting the following descriptions:

1. Any report, communication or document received by General Holder (or his staff) from an outside person or group that was used, looked at, referred to, discussed in, or mentioned in General Holder's December 13, 2011 LBJ speech.

2. Any report, communication or document sent by General Holder (or his staff) to an outside person or group that refers to, discusses, or mentions General Holder's December 13, 2011 LBJ speech.
3. Any report, communication or document received by General Holder (or his staff) from an outside person or group that discussed in any way, or lead to in any way, DOJ's newly stated policy announced by Holder during his LBJ speech to vigorously challenge state voter identification laws.
4. Any report, communication or document sent by General Holder (or his staff) to an outside person or group that discusses or mentions DOJ's new policy announced by General Holder during his LBJ speech to vigorously challenge state voter identification laws.
5. Any internal DOJ memorandum or document that mentions DOJ's policy shift to vigorously challenge state voter identification laws.
6. Any draft versions of General Holder's LBJ speech.

Scope of this Request:

Documents covered in this request will likely be located in within DOJ's attorney general's office. I am confident that DOJ knows the location of the requested documents and will be able to retrieve them without an extensive search. In preparing this request, DOJ should seek all documents from August 1, 2011 through the date that you fully comply with this request.

Please identify and fully inform me of any documents that are potentially responsive, and the basis for any claimed exemption or privilege. In light of the FOIA's primary purpose of making agency records available to the public, you should narrowly construe any exemptions in favor of disclosure. *See generally, Halpern v. Federal Bureau of Investigation*, 181 F.3d 279 (2d Cir. 1999).¹ Additionally, please inform me of any and all denials and redactions and properly index those documents.

If some portions of the requested documents are properly exempt from disclosure, please disclose the segregable, non-exempt portions. *See*, 5 U.S.C. §552(b).

Request for Fee Waiver:

In order to help to determine my status for purposes of determining the propriety of any fees, you should know that I am General Counsel for the National Center for Public Policy Research. The National Center is a 501(c)(3), nonpartisan think-tank

¹ *See also, Church of Scientology International v. Department of Justice*, 30 F.3d 224, 228 (1st Cir. 1994) (FOIA holds a policy "of broad disclosure, and the government must supply any information requested by an individual unless it determines that a specific exemption, narrowly construed, applies.").

headquartered in Washington, D.C. The National Center is organized and operated exclusively for educational purposes. Solely in furtherance of this purpose, it provides nonpartisan analysis, study and research on topical issues affecting public policies of the United States of America, the several states and local governments.

This request is not in the National Center's commercial interest. Instead, the National Center intends to use the requested information to inform the public about this identifiable operation of the federal government.

In order to grant fee waivers, DOJ explains:

Under the FOIA fee waivers are limited to situations in which a requester can show that the disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations and activities of the government and is not primarily in the commercial interest of the requester.²

This request does not serve the commercial interests of the National Center. The National Center is a non-profit, tax-exempt public interest organization. No National Center funds inure to the benefit of any shareholder (the National Center for Public Policy Research has no shareholders).

Our requested information will contribute significantly to the public understanding of identifiable DOJ operations. DOJ is responsible for enforcing Section 5 of the Voting Rights Act.³ In his LBJ speech, General Holder said he had recently discussed voting rights with many Americans who were concerned about their ability to vote. Since these communications have altered the entire tenor of the way DOJ carries out justice, the American public should rightfully view them.

During his speech, General Holder described our nation's history of extending voting rights, but then stated: "In my travels across this country, I've heard a consistent drumbeat of concern from many Americans, who – often for the first time in their lives – now have reason to believe that we are failing to live up to one of our nation's most noble, and essential, ideals [protecting voting rights]."⁴

² "Making a FOIA Request to DOJ," Department of Justice, available at <http://www.justice.gov/oip/foia-request.html#11> as of April 2, 2012.

³ See generally, "About Section 5 of the Voting Rights Act," Department of Justice, available at http://www.justice.gov/crt/about/vot/sec_5/about.php as of April 2, 2012.

⁴ "Attorney General Eric Holder Speaks at the Lyndon Baines Johnson Library & Museum," Department of Justice, December 13, 2011, available at <http://www.justice.gov/iso/opa/ag/speeches/2011/ag-speech-111213.html> as of April 2, 2012.

General Holder also gave the impression that he believes a mass conspiracy is afoot to deny certain minority population segments the right to vote when he quoted Congressman John Lewis (D-GA) as saying that voting rights are under attack, “[by] a deliberate and systematic attempt to prevent millions of elderly voters, young voters, students, [and] minority and low-income voters from exercising their constitutional right to engage in the democratic process.”⁵

This paints a very dark and nasty picture of many Americans. The American people have a right to know the groups and individuals whom General Holder spoke with to garner such a view. Many Americans are totally unaware of a massive “deliberate and systematic attempt to prevent millions” of Americans from voting. It is in the public interest that DOJ immediately release General Holder’s communications with groups and individuals that led him to this conclusion. As General Holder echoed President Lyndon Johnson by saying, “the right to vote is the basic right, without which all others are meaningless.”⁶

Our requested information will inform the public about these individuals or groups that recently had General Holder’s ear, and more importantly, what they said. What recent influences convinced the Attorney General of the United States to make a sea change in the Department of Justice? Were their complaints valid or spurious? What caused General Holder to view so many of his fellow Americans as virulent bigots who are willfully seeking to deny others the right to vote?

During the question and answer session following his LBJ speech, General Holder admitted that one of his top priorities was to reinvigorate the Civil Right Division of DOJ, saying, “the health of the United States Department of Justice can be measured in the vitality of its Civil Rights Division.”⁷ General Holder further claimed the Civil Rights Division had, “lost its way.”⁸ General Holder’s speech marked a watershed moment as it announced a changed DOJ policy, one that challenges states that try to protect their votes by requiring that voters present valid identification.

⁵ “Attorney General Eric Holder Speaks at the Lyndon Baines Johnson Library & Museum,” Department of Justice, December 13, 2011, available at <http://www.justice.gov/iso/opa/ag/speeches/2011/ag-speech-111213.html> as of April 2, 2012.

⁶ “Attorney General Eric Holder Speaks at the Lyndon Baines Johnson Library & Museum,” Department of Justice, December 13, 2011, available at <http://www.justice.gov/iso/opa/ag/speeches/2011/ag-speech-111213.html> as of April 2, 2012.

⁷ “An Evening With Eric Holder,” Lyndon Baines Johnson Library & Museum, December 13, 2011, available at <http://www.lbjlibrary.org/join-us/friends/past-events/2011/holder.html> as of April 2, 2012.

⁸ “An Evening With Eric Holder,” Lyndon Baines Johnson Library & Museum, December 13, 2011, available at <http://www.lbjlibrary.org/join-us/friends/past-events/2011/holder.html> as of April 2, 2012.

Many Americans see General Holder's shift as racially motivated.⁹ General Holder has accused Americans of being cowards when it comes to the topic of race.¹⁰ Furthermore, facing scrutiny for his department's involvement in the Fast and Furious gun running debacle, he has claimed that he and President Barack Obama are under attack because they are African-Americans.¹¹

Did the recent communications with outside groups and individuals that he mentioned in his LBJ speech jade General Holder's present view towards his fellow Americans? The importance of our requested information reaching the public cannot be overstated. General Holder heard from people across this nation who apparently feared they would be kept from voting. Those communications have led to DOJ challenging multiple states and General Holder to view these issues through a racial lens.

Even though the National Center is not a traditional member of the news media, it is organized exclusively to educate and inform the American public. Through the National Center, the requested information will reach the American people. Through its policy pieces, op-eds, blog pieces, radio and television interviews, National Center work is widely dispersed. Disclosure of the requested material will contribute to the National Center's ongoing work on government accountability. At present, the National Center website receives over 800,000 page views a month and the National Center blog, which covers much of the same material, receives over 200,000 page views a month, on average. Additionally, in 2010 alone, the National Center earned more than 6,700 media citations. That includes op-eds by National Center personnel appearing more than 400 times in newspapers including the Los Angeles Times, Chicago Tribune, Miami Herald, Investor's Business Daily, the New York Post and other major papers and continual appearances in the major broadcast media, as well as on hundreds of talk radio stations and shows. *See* 14 C.F.R. § 1206.701(c).

The National Center intends to disseminate the information it receives through this FOIA request primarily, but not exclusively, through these outlets. At minimum, the National Center specifically intends to issue a press release explaining how General Holder was influenced to change the entire direction of the Department of Justice. A large percentage of the National Center's media hits stem from our press releases.

⁹ *See* Ken Blackwell and Ken Klukowski, "Holder's War on Voter-ID Laws is Racially Motivated," The Daily Caller, December 30, 2011, available at <http://dailycaller.com/2011/12/30/holders-war-on-voter-id-laws-is-racially-motivated/> as of April 2, 2012.

¹⁰ "Holder Calls U.S. 'Nation of Cowards' on Race Matters," February 18, 2009, available at <http://www.foxnews.com/politics/2009/02/18/holder-calls-nation-cowards-race-matters/> as of April 2, 2012.

¹¹ Charlie Savage, "A Partisan Lightning Rod is Undeterred," New York Times, December 17, 2011, available at http://www.nytimes.com/2011/12/18/us/politics/under-partisan-fire-eric-holder-soldiers-on.html?_r=1 as of April 2, 2012.

If my fee waiver request is denied, I am willing to pay fees for this request up to a maximum of \$200. If you estimate that fees will exceed this limit, please inform me first.

My telephone number is 202-543-4110. Feel free to contact me between the hours of 9:00 AM to 5:30 PM, Monday through Friday, if necessary, to discuss any aspect of this request.

Thank you for your consideration of this request.

Sincerely,

A handwritten signature in black ink, appearing to read "Justin Danhof", with a long horizontal line extending to the right.

Justin Danhof, Esq.



U.S. Department of Justice
Office of Information Policy
Suite 11050
1425 New York Avenue, NW
Washington, DC 20530-0001

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NOV 09 2012

Mr. Justin Danhof
501 Capitol Street, NE
Suite 200
Washington, DC
jdanhof@nationalcenter.org

Re: AG/12-00767 (F)
VRB:NCS:GSA

Dear Mr. Danhof:

This responds to your Freedom of Information Act (FOIA) request dated and received in this Office on April 13, 2012, in which you requested communications between the Attorney General (AG) or his staff and outside entities relating to the AG's December 13, 2011, speech at the Lyndon Baines Johnson Library and Museum, as well as documents pertaining to the Department's "policy shift to vigorously challenge state voter identification laws." As memorialized by letter dated August 13, 2012, you previously indicated that you are not seeking draft material. This response is made on behalf of the Office of the Attorney General.

Please be advised that a search has been conducted in the Office of the Attorney General, as well as of the electronic database of the Departmental Executive Secretariat, which is the official records repository for the Office of the Attorney General, and no records responsive to your request were located.

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. *See* 5 U.S.C. 552(c) (2006 & Supp. IV 2010). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

If you are not satisfied with my response to this request, you may administratively appeal by writing to the Director, Office of Information Policy, United States Department of Justice, Suite 11050, 1425 New York Avenue, NW, Washington, DC 20530-0001, or you may submit an appeal through this Office's eFOIA portal at <http://www.justice.gov/oip/efoia-portal.html>. Your appeal must be received within sixty days from the date of this letter. Both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal."

Sincerely,

Vanessa R. Brinkmann
Counsel, Initial Request Staff