



FREEDOM OF INFORMATION
ACT REQUEST

FOIA-96-171

Rec'd 4-18-96

April 7, 1996

Dear Freedom of Information Officer:

This is a request under the federal Freedom of Information Act, 5 U.S.C. 553.

I'm interested in what members of Congress do when your agency takes action against their friends and constituents.

Please send me copies of all correspondence (including attachments and enclosures) your agency has received during the past five years from any current U.S. Senator, U.S. Representative or members of their staffs on behalf of any individual, business or other party, concerning any actual or possible investigation or any other type of actual or possible action by your agency for any type of actual, possible or alleged violation including, but not limited to, actual, possible, or alleged violations of any law, code, act, rule, regulation, etc. This includes, but is not limited to, actual or possible: regulatory enforcement actions, actions by your Office of Inspector General, civil actions, criminal actions, discipline actions, licensure actions, referrals to the Justice Department, compliance actions, consent decrees, fines, permit actions, etc. Please include your agency's responses.

Please include copies of all correspondence (including attachments and enclosures) your agency has received during the past five years from any current U.S. Senator, U.S. Representative or members of their staffs opposing any current or proposed federal rule or regulation. Please include your agency's responses.

You do not have to include routine form letters or "buck slips" from Congressmen in this request.

Please also send me copies of all memos, reports, or other documents from the past five years pertaining to phone calls, face-to-face meetings, or other contacts or communications between your agency and any current U.S. Senator, U.S. Representative or any members of their staffs on behalf of any individual, business or other party concerning any of the situations described above. Please include your agency's responses.

Please also send me copies of any other FOIA requests requesting copies of any of the records I am requesting along with your agency's response.

Please call me if I can modify this request in any way to make it easier for you to fill. I want to work with you to make this request as painless as possible.

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While Congress is exempt from the FOI Act, congressional correspondence is not if it is determined to be an agency record. The Supreme Court held in Kissinger v. The Reporters Committee for Freedom of the Press, 445 U.S. 136 (1980), that a record is considered an agency record if the agency exercised "control" over the record by entering the record in the agency's files or using the record for any agency purpose. The only way a Congressman can retain control over a letter is if he clearly makes his intention to retain control known before, or at the time, the letter is sent. They can not do it after the fact (Holy Spirit Assn. v. The CIA, 636-F.2d 838 D.C. Circuit 1980).

Please justify by reference to specific exemptions of the FOI Act any portion of this request that you withhold or delete. I reserve the right to appeal any decision to withhold or delete anything.

I request that you waive all fees associated with this request since disclosure of this information will be "primarily benefiting the general public." This request meets the statutory standard for fee waiver because the information I'm seeking clearly "is in the public interest because it is likely to contribute significantly to the public understanding of the operations or activities of the government." I am making this request as a journalist and I intend to use this information for a news story exploring the operations and activities of Congress and the federal government. Please notify me before you fulfill this request if you deny my application for fee waiver so that I may appeal your decision.

I realize that this is a fairly extensive request - I waive my right to receive a response within 10 business days.

Thank you,

Eric Koli

Eric Koli
Producer
Dateline/NBC News
30 Rockefeller Plaza, Room 517
New York, NY 10112
212-664-2126