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FOIA/PA Mail Referral Unit
Department of Justice
Room 115
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Washington, DC 20530-0001

Via facsimile: (301) 341-0772

To Whom it May Concern:

This letter constitutes a request under the Freedom of Information Act, 5 U.S.C. § 552, et seq. and is submitted on behalf of the Partnership for Civil Justice Fund and the National Lawyers Guild Mass Defense Committee.

We are requesting information related to law enforcement involvement in discussions, communications and technical support regarding the Occupy Wall Street movement and the Occupy encampments in cities around the country. This request encompasses any law enforcement involvement, including specifically but not limited to the Department of Justice and interagency efforts that the Department of Justice may participate in such as the Joint Terrorism Task Forces or Fusion Centers.

This request includes, but is not limited to, information reflecting communications involving law enforcement and state or municipal representatives and/or private consultants or analysts pertaining to the Occupy movement, the Occupy encampments, and law enforcement or government response thereto.

Published reports reflect the occurrence of communications or meetings organized or involving the Police Executive Research Forum that occurred on October 11, 2011 and

November 4, 2011. Published reports also reflect such communications or meetings organized by the U.S. Conference of Mayors, which have occurred in October and November, 2011. This request is not limited to these specific occurrences, but is intended to broadly encompass any communications involving law enforcement (including your agency) regarding the Occupy movement, encampments and government or police response thereto.

This request specifically encompasses disclosure of any documents or information pertaining to Federal coordination of, or advice or consultation regarding, the police response to the Occupy movement, protests or encampments.

We are requesting information reflecting communications about Occupy encampments, including but not limited to: meetings, phone conferences, organizing of meetings or phone conferences, analysis, information sharing, planning for responses to Occupy encampments, health and safety concerns about encampments, deployment of federal officers in conjunction with local law enforcement actions, best practices discussions, table top exercises, planning documents or after action reports. Your response should include, but is not limited to, emails, memos, notes, power point or other presentation materials, threat alerts or other bulletins or circulars.

We are requesting the information be produced in electronic format where it is so available.

The PCJF and the NLG are hereby requesting a fee waiver for any fees associated with this request, pursuant to 5 U.S.C. § 552(a)(4)(A)(ii), and expedited processing pursuant to 5 U.S.C. § 552(a)(6)(E)(i).

Request for Expedited Processing

We are requesting expedited processing of this request pursuant to 5 U.S.C. § 552(a)(6)(E) based on compelling need and “urgency to inform the public concerning actual or alleged Federal Government activity.” We certify, as required by regulation, that the compelling need for expedited processing is true and correct to the best of our knowledge and belief.

This request is central to the transparency that is required for there to be an accurate recounting and assessment of the activities of the United States government in regard to free speech activities in the United States and the growing social and economic justice movement organizing in cities and towns across the country under the umbrella called Occupy. The prompt release of this information at this time is critical.

Over the past week, law enforcement has raided Occupy sites including but not limited to New York City; Oakland, California; San Francisco, California; University of California, Berkeley; San Diego, California; Portland, Oregon; Denver, Colorado; and Seattle, Washington. Threats of law enforcement action have been made against other Occupy sites, including Los

Angeles, California, Dallas, Texas, and Boston, Massachusetts. Finally other cities, such as Chicago, Illinois, have seen police crackdowns as soon as protesters attempted to set up camp.

Accordingly, the present request pertains to “a breaking news story of general public interest.” Protestors, supporters, and the American public in general have a right to know the extent of the federal government’s involvement in state and municipal law enforcement action against the growing Occupy protest movement. Such knowledge will inform the protest movement and the public at large of the government response to the lawful exercise of First Amendment rights. Many municipalities have stated that their actions are based on an emergency need to respond to claimed health and safety concerns. Multi-jurisdiction discussion, coordination and planning, with federal involvement, may tend to show that such claims are orchestrated pretexts to remove encampments. The public demand and interest in such coverage is intense. See attached list of hundreds of articles.

Status as a Representative of the News Media

The PCJF and the NLG are non-commercial use requesters. Each is also a representative of the news media, in other words, an entity that gathers information of potential interest to a segment of the public, which uses its editorial skills to turn raw materials and information into a distinct work, and which distributes that work to an audience. See 5 U.S.C. § 552(a)(4)(A)(i); See also, Nat’l Sec. Archive v. Dep’t of Def., 880 F.2d 1381, 1387 (D.C. Cir. 1989), cert. denied, 494 U.S. 1029 (1990).

The Partnership for Civil Justice Fund is a non-profit, 501(c)(3) tax exempt charitable legal and educational organization which, among other things, works to ensure transparency and openness in government operations. It also works to ensure constitutional conduct within government practices, including police practices, affecting civil and constitutional rights. The PCJF reviews and researches police practices for such purposes. The PCJF also seeks to educate the public on the issues of civil and constitutional rights and civil liberties. A primary organizational purpose is information dissemination. The material requested is not for commercial use and is sought for legal and scholarly review and research by the attorneys and staff of the PCJF and for publication and dissemination to the public.

The PCJF has worked in defense of civil rights and civil liberties nationally and for persons living in or visiting Washington, D.C. It has engaged in public education on key issues and provided assistance to large classes of persons, individuals and political advocacy organizations who seek to be free from government intrusion into lawful activities and/or whose constitutional rights were violated or restricted by government conduct or policy. See, e.g., Mills v. District of Columbia, 571 F.3d 1304 (D.C. Cir. 2009) (finding MPD’s Neighborhood Safety Zone checkpoint program, which had been deployed in the Trinidad neighborhood, unconstitutional); Barham v. Ramsey, 434 F.3d 565 (D.C. Cir. 2006) (finding violation of constitutional rights where District of Columbia terminated free speech assembly and unlawfully

arrested all persons in proximity to Pershing Park during protest activity, with participation of U.S. Park Police); Becker v. District of Columbia, Civil Action No. 01-00811, United States District Court for the District of Columbia (class action alleging constitutional rights violations and false arrest of large demonstration group, resulting in the largest protest related settlement in the U.S., and uncovering federal involvement including FBI participation in what were publicly described as purely local law enforcement actions); Garcia, et al v Bloomberg, et al, Civil Action No. 11-06957 (JSR), United States District Court for the Southern District of New York (asserting unlawful police conduct and violations of constitutional rights of persons engaged in First Amendment-protected activities in conjunction with the Occupy movement).

The information requested is necessary in furtherance of the role of the PCJF as a watchdog to review and analyze government policies and procedures in order to ensure compliance with constitutional and legal standards.

The National Lawyers Guild was formed as the nation's first racially integrated voluntary bar association, with a mandate to advocate for fundamental principles of human and civil rights including the protection of rights guaranteed by the United States Constitution. Since then the Guild has been at the forefront of efforts to develop and ensure respect for the rule of law and basic legal principles. The Guild has championed the First Amendment right to engage in vigorous political speech for 75 years. The Guild has a long history of defending individuals accused by the government of espousing "dangerous" ideas, including in hearings conducted by the House Committee on Un-American Activities and other examples of governmental overreaching now popularly discredited. See e.g. Kinoy v. District of Columbia, 400 F.2d 761 (1968). Since then, it has continued to represent thousands of Americans critical of government policies, from civil rights advocates and anti-war activists during the Vietnam era to current anti-globalization, peace, environmental and animal rights activists. Its Mass Defense Committee is a coordinated body of hundreds of lawyers, legal workers and law students who are defending the free speech rights of the Occupy actions around the country.

In addition to its national law journal, *The Guild Practitioner*, the NLG publishes regularly on matters specifically involving both local and federal law enforcement's response to mass demonstrations, including the following books authored by NLG Executive Director, Heidi Boghosian, *The Policing of Political Speech: Constraints on Mass Dissent in the U.S.* (2010), *Punishing Protest: Government Tactics that Suppress Free Speech* (2007), *The Assault on Free Speech, Public Assembly, and Dissent: A National Lawyers Guild Report on Government Violations of First Amendment Rights in the United States* (2004).

The requested materials relate to ongoing review and study by the PCJF and the NLG that will culminate in a published analysis regarding authority of federal force deployment in the context of political and social movements. The requestors will engage in legal and scholarly research and analysis of the materials requested, distill the raw materials along with an applied analysis into a distinct work, and will publish the results. The requestors will act as editor of the

research which, combined with in-house expertise and knowledge pertaining to civil rights and constitutional law, will be presented as part of the analyses described above.

Request for Public Interest Fee Waiver

Furnishing of the requested information will primarily benefit the public interest in ensuring lawful and constitutional exercise of law enforcement authority in the context of free speech and assembly activities. The requested materials will “likely contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.” 5 U.S.C. § 552(a)(4)(A)(ii)(II).

The information sought is not requested for commercial purposes and will be made available to the public and widely disseminated, both in raw form as well as in the form of the distinct expert analysis.

Willingness to Pay Applicable Fees

For the aforementioned reasons, we do not believe fees are appropriately assessed for purposes of this request. We do, however, state a willingness to pay fees up to \$100 for the materials, under protest, and subject to the exercise of the right to appeal any imposition of fees through administrative channels or civil litigation.

Production of Segregable Information

Should any requested information be withheld based on a claimed exemption, we request that you produce any segregable portions.

Sincerely,



Mara Verheyden-Hilliard