

CENTER for JUDICIAL ACCOUNTABILITY, INC.

P.O. Box 69, Gedney Station
White Plains, New York 10605-0069

Tel. (914) 421-1200
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E-Mail: judgewatch@aol.com
Web site: www.judgewatch.org

Elena Ruth Sassower, Coordinator

July 13, 2000

Co-Director
Office of Information and Privacy
Flag Building, Suite 570
Department of Justice
Washington, D.C. 20530-0001

RE: Freedom of Information Act Appeal

Dear Co-Director:

This letter appeals from the first paragraph of the May 26, 2000 letter of Melanie Ann Pustay that denies that portion of CJA's May 1, 2000 F.O.I.A. request as requests "a copy of the rules and regulations that the United States Attorney General was required to promulgate for "Disqualification of officers and employees of the Department of Justice", pursuant to 28 USC §528. This includes whether such rules and regulations "provide that a willful violation of any provision thereof shall result in removal from office".

For your convenience, copies of CJA's May 1st request and Ms. Pustay's May 26th response are enclosed.

Please advise as to whether specification as to the grounds of appeal are required – beyond the fact that IF such rules and regulations do exist – and I have been unable to locate them through law library research, aided by a law librarian and, prior thereto, by written requests to both the U.S. Attorney for the Southern District of New York and the U.S. Attorney for the Eastern Districts of New York – they plainly are set forth in written form, obtainable through F.O.I.A.

Yours for a quality judiciary
and government integrity,



ELENA RUTH SASSOWER, Coordinator
Center for Judicial Accountability, Inc. (CJA)

Enclosures

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PS Form 3811, July 1999

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Elena Ruth Sassower, Coordinator

BY CERTIFIED MAIL/RRR
7099-3400-0001-2791-8677

May 1, 2000

Melanie Ann Pustay, Deputy Director
Office of Information and Privacy
Suite 570, Flag Building
Department of Justice
Washington, D.C. 20530-0001

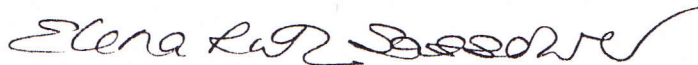
RE: Requests pursuant to F.O.I.A.

Dear Ms. Pustay:

Pursuant to F.O.I.A, request is made for a copy of the rules and regulations that the United States Attorney General was required to promulgate for "Disqualification of officers and employees of the Department of Justice", pursuant to 28 USC §528. This includes whether such rules and regulations "provide that a willful violation of any provision thereof shall result in removal from office". For your convenience, a copy of 28 USC §528 is annexed hereto.

Additionally, request is made for records and/or information pertaining to the jurisdiction of the Public Integrity Section of the Justice Department's Criminal Division, as well as of the U.S. Attorneys, to investigate and prosecute state governmental corruption which, because it involves high-ranking and powerful state officials and state agencies, is not investigated and prosecuted on the state level.

Yours for a quality judiciary
and government integrity,



ELENA RUTH SASSOWER, Coordinator
Center for Judicial Accountability, Inc. (CJA)

Enclosure

Change of Name of United States Magistrate. United States magistrate appointed under section 631 of this title to be known as United States magistrate judge after Dec. 1, 1990, with any reference to United States magistrate or magistrate in this title, or in any other Federal statute, etc., deemed a reference to United States magistrate judge appointed under section 631 of this title, see section 321 of Pub.L. 101-650, set out as a note under section 631 of this title.

§ 527. Establishment of working capital fund

There is hereby authorized to be established a working capital fund for the Department of Justice, which shall be available, without fiscal year limitation, for expenses and equipment necessary for maintenance and operations of such administrative services as the Attorney General, with the approval of the Office of Management and Budget, determines may be performed more advantageously as central services. The capital of the fund shall consist of the amount of the fair and reasonable value of such inventories, equipment, and other assets and inventories on order pertaining to the services to be carried on by the fund as the Attorney General may transfer to the fund less related liabilities and unpaid obligations together with any appropriations made for the purpose of providing capital. The fund shall be reimbursed or credited with advance payments from applicable appropriations and funds of the Department of Justice, other Federal agencies, and other sources authorized by law for supplies, materials, and services at rates which will recover the expenses of operations including accrual of annual leave and depreciation of plant and equipment of the fund. The fund shall also be credited with other receipts from sale or exchange of property or in payment for loss or damage to property held by the fund. There shall be transferred into the Treasury as miscellaneous receipts, as of the close of each fiscal year, any net income after making provisions for prior year losses, if any.

(Added Pub.L. 93-613, § 1(1), Jan. 2, 1975, 88 Stat. 1975.)

EDITORIAL NOTES

Capital Equipment Acquisition, Etc., by Income Retained from Working Capital Fund; Amounts and Limitations. Pub.L. 102-140, Title I, Oct. 28, 1991, 105 Stat. 784, provided in part, that: "Of the total income of the Working Capital Fund in fiscal year 1992 and each fiscal year thereafter, not to exceed 4 percent of the total income may be retained, to remain available until expended, for the acquisition of capital equipment and for the improvement and implementation of the Department's financial management and payroll/personnel systems: *Provided*, That in fiscal year 1992, not to exceed \$4,000,000 of the total income retained shall be used for improvements to the Department's data processing operation: *Provided further*, That any proposed use of the

retained income in fiscal year 1992 and thereafter, except for the \$4,000,000 specified above, shall only be made after notification to the Committees on Appropriations of the House of Representatives and the Senate in accordance with section 606 of this Act [not classified to the Code]."

Transfer of Funds into Capital Account of Working Capital Fund for Availability of Acquisition of Capital Equipment, Etc.; Limitations. Pub.L. 102-140, Title I, Oct. 28, 1991, 105 Stat. 784, provided in part, that: "In addition, for fiscal year 1992 and thereafter, at no later than the end of the fifth fiscal year after the fiscal year for which funds are appropriated or otherwise made available, unobligated balances of appropriations available to the Department of Justice during such fiscal year may be transferred into the capital account of the Working Capital Fund to be available for the departmentwide acquisition of capital equipment, development and implementation of law enforcement or litigation related automated data processing systems, and for the improvement and implementation of the Department's financial management and payroll/personnel systems: *Provided*, That any proposed use of these transferred funds in fiscal year 1992 and thereafter shall only be made after notification to the Committees on Appropriations of the House of Representatives and the Senate in accordance with section 606 of this Act [not classified to the Code]."

§ 528. Disqualification of officers and employees of the Department of Justice

The Attorney General shall promulgate rules and regulations which require the disqualification of any officer or employee of the Department of Justice, including a United States attorney or a member of such attorney's staff, from participation in a particular investigation or prosecution if such participation may result in a personal, financial, or political conflict of interest, or the appearance thereof. Such rules and regulations may provide that a willful violation of any provision thereof shall result in removal from office.

(Added Pub.L. 95-521, Title VI, § 603(a), Oct. 26, 1978, 92 Stat. 1874.)

§ 529. Annual report of Attorney General

Beginning on June 1, 1979, and at the beginning of each regular session of Congress thereafter, the Attorney General shall report to Congress on the activities and operations of the Public Integrity Section or any other unit of the Department of Justice designated to supervise the investigation and prosecution of—

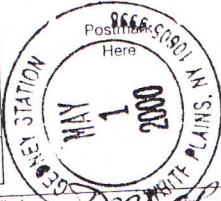
(1) any violation of Federal criminal law by any individual who holds or who at the time of such violation held a position, whether or not elective, as a Federal Government officer, employee, or special employee, if such violation relates directly or indirectly to such individual's

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U.S. Department of Justice

Office of Information and Privacy

rec'd 6/2/00

Telephone: (202) 514-3642

Washington, D.C. 20530

MAY 26 2000

Ms. Elena R. Sassower
P.O. Box 69
Gedney Station
White Plains, NY 10605-0069

Re: OIP/00-R0558
MAP:CLM:BB

Dear Ms. Sassower:

This responds to your Freedom of Information Act (FOIA) request, dated May 1, 2000, for "a copy of the rules and regulations that the United States Attorney General was required to promulgate . . . pursuant to 28 USC § 528." Please be advised that the FOIA does not require federal agencies to compile information or conduct research. See Hudgins v. IRS, 620 F. Supp. 19, 21 (D.D.C. 1985) ("FOIA neither requires an agency to answer questions . . . or to create documents or opinions in response to an individual's request for information"). This information may be available at a public library.

With regard to your request for "information pertaining to the jurisdiction of the Public Integrity Section of the Justice Department's Criminal Division, as well as of the U.S. Attorneys, to investigate and prosecute state governmental corruption," we have forwarded your request to the Criminal Division and the Executive Office for United States Attorneys for processing and direct response to you.

If you consider this response to be a denial of your request, you may administratively appeal by writing to the Co-Director, Office of Information and Privacy, United States Department of Justice, Flag Building, Suite 570, Washington, D.C. 20530-0001, 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,

Melanie Ann Pustay

Melanie Ann Pustay
Deputy Director