

**EXHIBIT 2**



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WASHINGTON, DC 20005-3948  
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July 5, 2011

FREEDOM OF INFORMATION APPEAL

Director, Office of Information Policy  
U.S. Department of Justice  
1425 New York Ave., NW, Suite 11050  
Washington, D.C. 20530-0001

RE: FOIPA Request No. 1164075-000

Dear Director:

By fax dated April 4, 2011, I sent to the FBI the FOIA request attached hereto as Exhibit A. On June 8, 2011, I received from David M. Hardy the FOIA response attached hereto as Exhibit B, together with 26 pages of released documents.

The information contained in, and accompanying, Mr. Hardy's FOIA response indicates that 25 pages of responsive documents have been withheld in full on the basis of FOIA exemptions (b)(6), (7)(C) & (7)(D). In my experience, these exemptions are rarely invoked to protect entire documents, but are rather utilized to justify limited redactions from documents in order to fulfill the purposes of the exemptions in balance with the FOIA's otherwise broad mandate of public disclosure. Indeed, that is precisely the manner in which these same exemptions were invoked on portions of the 26 pages of documents which were released in response to this FOIA request. Thus, it appears that these exemptions have been applied far too broadly, especially given that the general subject matter of the documents has been a subject of public court proceedings for most of the past 17 years.

For all of the foregoing reasons, I ask you to review this file on appeal and direct whatever further actions need to be undertaken to ensure the FBI's full and complete compliance with its obligations under the law in response to this FOIA request. Thank you in advance for your time and attention to this appeal. If you have any questions at all concerning it, please do not hesitate to contact me at 202-508-4655 or [Stephen.braga@ropesgray.com](mailto:Stephen.braga@ropesgray.com).

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen L. Braga", written over a horizontal line.

Stephen L. Braga

**EXHIBIT A**

SLB

FBI eFOIA Request Form

Instructions:

Faxed 4/4/11

1) Please use this form only to request information about an organization, a business, an investigation, a historical event, an incident, or a group. This form should not be used to submit Privacy Act requests for information about yourself or another living person.

2) Required fields are marked. If you do not enter accurate and complete information, we may not be able to process your request.

3) After filling out the information, submit your request electronically by clicking the SUBMIT button at the bottom of the page. Please note: This is not a secure form, and we cannot guarantee the confidentiality of communications sent via the Internet.

4) You also have the option of typing your information into this form, printing it, and: (1) faxing it to (540) 868-4997; or (2) mailing it to **FBI, FOI/PA Request, Record/Information Dissemination Section, 170 Marcel Drive, Winchester, VA 22602-4843**. You can also e-mail the information to foiparequest@ic.fbi.gov.

5) For more information on how to prepare and submit your request, please call the FOIA Requestor Service Center at (540) 868-1535 or see the Requesting FBI Records webpage: [http://foia.fbi.gov/requesting\\_records.html](http://foia.fbi.gov/requesting_records.html)

Dear FOIA Officer:

This is a request filed under the Freedom of Information Act.

**Reasonably Describe the Records**

Describe the records you are requesting. Be as specific as possible with regard to names, dates, places, events, subjects, etc. Please include any known file designations or descriptions for the records you seek.

Bear in mind that the FBI was not established until 1908 and has very few records prior to the 1920s. The Freedom of Information Act clearly states that records must exist at the time the request is submitted to be considered.

**Enter description:** You must submit a separate request for each subject: (Required)  
Describe Subject/Incident of Request. Give Time Frame (if applicable).

All records relating to communications to the FBI, or from the FBI, between January 1, 2000 and April 4, 2011 relating to FBI File Number 252B-LR-34807. In this request, communications includes correspondence, e-mails, text messages, phone messages, voice mail messages, teletypes, facsimiles, memoranda or other communication of any kind, directly or indirectly sent to or from the FBI. This request also includes records of communications which are merely copied to or by the FBI in any form, either expressly or covertly.

**Type of Requestor**

Please provide information about yourself and the purpose of your request to help us determine your fee category: (Required)

I am an attorney working in Washington, D.C. I represent Damien Echols, one of the three young men convicted as a result of the investigation of the crimes referenced in the specified file.

**Fees and Fee Waivers**

Your request must include a statement that:

- (1) You agree to pay any fees that may be incurred to process the request;
- (2) Stipulates an amount you are willing to pay; or
- (3) Requests a specific waiver or reduction of fees.

Please select the statement that applies: (Required)

I agree to pay all applicable fees.

I agree to pay up to a specific amount for fees.  (Enter dollar amount)

I request a waiver or reduction of fees.

Explanation for request of waiver or reduction of fees:

**Expedited Processing**

If you are seeking expedited processing, please choose one of the options below and provide a justification.

I believe a compelling need exists to warrant expedited processing because there is an imminent threat to the life or physical safety of an individual.

I believe a compelling need exists to warrant expedited processing because there is an urgency to inform the public concerning actual or alleged federal government activity (Note: This option is available ONLY for requestors primarily engaged in disseminating information).

Please provide your specific justification for expedited processing:

Thank you for your consideration of my request.

Sincerely,

Title: (Mr. Mrs. Miss, etc.) Mr.

Name: (Required) Stephen L. Braga

Organization: (Required if applicable)

Ropes & Gray LLP

Street Address: (Required)

700 12th Street, N.W., Suite 900

City: (Required) Washington

State: (Required if applicable) DC

Or Country: (Required if applicable) USA

ZIP or Postal Code: (Required) 20005

Phone #1: 202-508-4655

Phone #2: 617-304-7124

Fax Number: 202-383-9821

E-mail address: stephen.braga@ropesgray.com

Secondary address:

**Submit**

**Print Page**

**Clear Information**

**EXHIBIT B**



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535  
June 8, 2011

MR. STEPHEN L. BRAGA  
ROPES & GRAY LLP  
ONE METRO CENTER  
SUITE 900  
700 12TH STREET, NW  
WASHINGTON, DC 20005 3948

Subject: FBI FILE NUMBER 252B-LR-34807 (TIME FRAME  
JANUARY 1, 2000-APRIL 4, 2011)  
FOIPA No. 1164075- 000

Dear Mr. Braga:

The enclosed documents were reviewed under the Freedom of Information/Privacy Acts (FOIPA), Title 5, United States Code, Section 552/552a. Deletions have been made to protect information which is exempt from disclosure, with the appropriate exemptions noted on the page next to the excision. In addition, a deleted page information sheet was inserted in the file to indicate where pages were withheld entirely. The exemptions used to withhold information are marked below and explained on the enclosed Form OPCA-16a:

Section 552		Section 552a
<input type="checkbox"/> (b)(1)	<input type="checkbox"/> (b)(7)(A)	<input type="checkbox"/> (d)(5)
<input type="checkbox"/> (b)(2)	<input type="checkbox"/> (b)(7)(B)	<input type="checkbox"/> (j)(2)
<input type="checkbox"/> (b)(3) _____	<input checked="" type="checkbox"/> (b)(7)(C)	<input type="checkbox"/> (k)(1)
_____	<input checked="" type="checkbox"/> (b)(7)(D)	<input type="checkbox"/> (k)(2)
_____	<input type="checkbox"/> (b)(7)(E)	<input type="checkbox"/> (k)(3)
_____	<input type="checkbox"/> (b)(7)(F)	<input type="checkbox"/> (k)(4)
<input type="checkbox"/> (b)(4)	<input type="checkbox"/> (b)(8)	<input type="checkbox"/> (k)(5)
<input type="checkbox"/> (b)(5)	<input type="checkbox"/> (b)(9)	<input type="checkbox"/> (k)(6)
<input checked="" type="checkbox"/> (b)(6)		<input type="checkbox"/> (k)(7)

51 page(s) were reviewed and 26 page(s) are being released.

- Document(s) were located which originated with, or contained information concerning other Government agency(ies) [OGA]. This information has been:
  - referred to the OGA for review and direct response to you.
  - referred to the OGA for consultation. The FBI will correspond with you regarding this information when the consultation is finished.

You have the right to appeal any denials in this release. Appeals should be directed in writing to the Director, Office of Information Policy, U.S. Department of Justice, 1425 New York Ave., NW, Suite 11050, Washington, D.C. 20530-0001. Your appeal must be received by OIP within sixty (60) days from the date of this letter in order to be considered timely. The envelope and the letter should be clearly marked "Freedom of Information Appeal." Please cite the FOIPA Number assigned to your request so that it may be easily identified.

The enclosed material is from the main investigative file(s) in which the subject(s) of your request was the focus of the investigation. Our search located additional references, in files relating to other individuals, or matters, which may or may not be about your subject(s). Our experience has shown,



when ident, references usually contain information similar to the information processed in the main file(s). Because of our significant backlog, we have given priority to processing only the main investigative file(s). If you want the references, you must submit a separate request for them in writing, and they will be reviewed at a later date, as time and resources permit.

See additional information which follows.

Sincerely yours,



David M. Hardy  
Section Chief  
Record/Information  
Dissemination Section  
Records Management Division

Enclosure(s)

In response to your limited Freedom of Information Act (FOIA) request, enclosed is a processed copy of FBI Little Rock file number 252-LR-31807.

This completes the processing of your FOIA request by the FBI.

## EXPLANATION OF EXEMPTIONS

## SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552

- (b)(1) (A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified to such Executive order;
- (b)(2) related solely to the internal personnel rules and practices of an agency;
- (b)(3) specifically exempted from disclosure by statute (other than section 552b of this title), provided that such statute(A) requires that the matters be withheld from the public in such a manner as to leave no discretion on issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;
- (b)(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;
- (b)(5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;
- (b)(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;
- (b)(7) records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information ( A ) could be reasonably be expected to interfere with enforcement proceedings, ( B ) would deprive a person of a right to a fair trial or an impartial adjudication, ( C ) could be reasonably expected to constitute an unwarranted invasion of personal privacy, ( D ) could reasonably be expected to disclose the identity of confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source, ( E ) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or ( F ) could reasonably be expected to endanger the life or physical safety of any individual;
- (b)(8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or
- (b)(9) geological and geophysical information and data, including maps, concerning wells.

## SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552a

- (d)(5) information compiled in reasonable anticipation of a civil action proceeding;
- (j)(2) material reporting investigative efforts pertaining to the enforcement of criminal law including efforts to prevent, control, or reduce crime or apprehend criminals;
- (k)(1) information which is currently and properly classified pursuant to an Executive order in the interest of the national defense or foreign policy, for example, information involving intelligence sources or methods;
- (k)(2) investigatory material compiled for law enforcement purposes, other than criminal, which did not result in loss of a right, benefit or privilege under Federal programs, or which would identify a source who furnished information pursuant to a promise that his/her identity would be held in confidence;
- (k)(3) material maintained in connection with providing protective services to the President of the United States or any other individual pursuant to the authority of Title 18, United States Code, Section 3056;
- (k)(4) required by statute to be maintained and used solely as statistical records;
- (k)(5) investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment or for access to classified information, the disclosure of which would reveal the identity of the person who furnished information pursuant to a promise that his/her identity would be held in confidence;
- (k)(6) testing or examination material used to determine individual qualifications for appointment or promotion in Federal Government service the release of which would compromise the testing or examination process;
- (k)(7) material used to determine potential for promotion in the armed services, the disclosure of which would reveal the identity of the person who furnished the material pursuant to a promise that his/her identity would be held in confidence.

FEDERAL BUREAU OF INVESTIGATION  
FOIPA  
DELETED PAGE INFORMATION SHEET

Serial Description ~ Unrecorded Serial

Total Deleted Page(s) ~ 9

Page 2 ~ b6, b7C, b7D

Page 3 ~ b6, b7C, b7D

Page 4 ~ b6, b7C, b7D

Page 5 ~ b6, b7C, b7D

Page 6 ~ b6, b7C, b7D

Page 7 ~ b6, b7C, b7D

Page 8 ~ b6, b7C, b7D

Page 9 ~ b6, b7C, b7D

Page 10 ~ b6, b7C, b7D

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Page 8 ~ b6, b7C, b7D

Page 9 ~ b6, b7C, b7D

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Page 9 ~ b6, b7C, b7D

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