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FILE: Legal

MEMORANDUM FOR: Deputy Director for Administration

FROM:

Chief, Information Services Staff

SUBJECT: Appeal of Decision in Eudey vs. CIA

Don:

1. Attached (Tab A) is a memorandum for your signature to Dan Silver requesting that OGC review what appears to be their decision not to appeal the Eudey case. As you know, the Eudey case is the one wherein the judge ruled that one of our reasons for denying fee waiver requests was not legal. The underlying basis for denying the fee waiver request of Eudey was the fact that after initial review it was determined that very little, if any, information would be released to the requester as a result of her request. Hence, if little or no information was to be released, it could not be said that the results of the request would be of primary benefit to the public.

2. We have not received a formal statement from OGC on their intention not to appeal the Eudey case. However, I have been advised that is OGC's position.

3. While I have been advised informally by OGC that the Eudey case will not alter our fee waiver policy, I have before me a decision to make in the Wall Street Journal case. That case involves an appeal of a denial of a request for a fee waiver for information concerning bribery of foreign officials by over 500 corporations. OGC and IPD have reviewed this case, and IPD has been advised that OGC sees no way we can deny the waiver request, specifically in light of Eudey which the Journal cites. As I have mentioned, our preliminary estimates for search costs in the Journal case are in the neighborhood of \$80,000. We had originally denied the Journal's fee waiver request on the same basis as our decision in Eudey. Obviously, the position we take on the Journal case will have to be maintained in other cases and costs to the Agency could be astronomical.

4. As I mentioned, we have not received formal guidance from OGC as a result of Eudey. I think formal legal guidance is a must. I

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believe the attached memorandum will bring the matter to a head. In addition to the memorandum at Tab A, I am sending  a note (Tab B) indicating that I plan to bring this to the attention of the IRC at a meeting to be scheduled in January.

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Attachments

C/ISS/DDA:  (14 Dec 79)

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