

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
Family Division
Domestic Violence Unit

SUPERIOR COURT OF THE
DISTRICT OF COLUMBIA
DOMESTIC VIOLENCE
2013 DEC 27 P 4:17

STEPHANIE GRAY,

Petitioner,

v.

DENNIS SOBIN,

Respondent.

FILED

No. 2013 CPO 3690

Judge Todd E. Edleman

Next Event: Hearing, January 24, 2014

**BRIEF OF THE AMERICAN CIVIL LIBERTIES UNION
OF THE NATION'S CAPITAL, AS AMICUS CURIAE**

This case represents an inappropriate attempt to use the District of Columbia's stalking statute to restrict speech, directed at the public, that is about a matter of public concern. The fact that the petitioner is a government employee and that the speech at issue related to her official duties makes the case all the more disturbing in its implications for freedom of speech.

The petition for a civil protective order should be dismissed because respondent Sobin's website and leaflets are constitutionally protected. The Court has already noted that the website and leaflets constitute political speech, and Gray tacitly concedes that point. As a result, Sobin's speech is entitled to special protection. And it is entitled to such protection despite the various factors that Gray relies on, including the emotional impact of the leaflets and website and the fact that the leaflets were distributed in a place that, according to Gray, was not a public forum.

Gray's post-hearing brief puts great stress on the fact that the photographs of her were taken surreptitiously, in a place where, she contends, photography was forbidden and she had a reasonable expectation of privacy. As we will show, both of those contentions are mistaken. The GSA regulation restricting photography in space under GSA's authority does not apply here, because CSOSA's offices are not controlled by GSA. And the taking of the photographs did not

invade Gray's privacy, because they did no more than record what was plainly visible to members of the public such as Sobin while lawfully present in CSOSA's office.¹

I. Sobin's website and leaflets dealt a matter of public interest and are therefore entitled to special protection.²

In *Snyder v. Phelps*, the recent case about the Westboro Baptist Church's picketing of a military funeral holding signs saying things like "Thank God for Dead Soldiers" and "God Hates You," the Supreme Court noted that speech on "matters of public concern" is "at the heart of the First Amendment's protection."³ The Court held that the picketers' speech fell into that category and that as a result it was entitled to "special protection[.]"⁴

Similarly, this Court observed at the hearing on November 1 that the website and leaflets are "clearly political speech" and noted, "I don't hear the petitioner arguing otherwise."⁵ And Gray does not dispute the point in her brief, stating instead that she "is not addressing the textual aspects of Respondent's fliers" that deal with the sex-offender registry."⁶

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1. In arguing that Sobin's speech is constitutionally protected, we take no position on whether his arguments about the sex-offender registry are well founded or on whether his mode of expressing those arguments is socially appropriate. Many might believe that Sobin is acting like a jerk, but the First Amendment protects jerks as well as nice guys.
 2. The prohibition against stalking by its own terms "does not apply to constitutionally protected activity." D.C. Code § 22-3133(b). In order to show that Sobin is guilty of stalking, Gray bears the burden of proving that his speech was unprotected. But even if Sobin had the burden of proof on this issue, it would still be clear that his speech is protected.
 3. 131 S. Ct. 1207, 1215 (2011).
 4. *Id.* at 1219. The Court also relied on the fact that the picketing occurred "at a public place[.]" *Id.* Sobin's website similarly represents speech at a public place. His leaflets, too, were distributed in a place open to the public. See District of Columbia, Metropolitan Police Department, *Police Headquarters*, <http://mpdc.dc.gov/node/135832> (visited Dec. 20, 2013) (listing public services available in the building). Gray's argument that the building is not a public forum is discussed below.
 5. Tr. of Hrg. 43 (Exhibit 1 hereto). For discussion of the wisdom of sex-offender registration laws, see, e.g., Paul Applebaum, *Sex Offenders in the Community: Are Current Approaches Ineffective?*, 59 *Psychiatric Services*, No. 4 at 352 (April 2008), available at <http://tinyurl.com/CURRENTAppr> (visited Dec. 20, 2013); Jacob Sullum, *Perverved Justice*, Reason (print edition July 2011), available at <http://tinyurl.com/PrvrtdJstce> (posted June 14, 2011).
 6. Gray Post-Hrg. Br. 8.

The purpose behind this tacit concession is apparently to focus attention solely on the photographs of Gray. But Sobin’s website and leaflets must be considered in their entirety, not dissected into separate parts that are then evaluated in isolation. As the Court explained in *Snyder*, “Deciding whether speech is of public or private concern requires [the court] to examine the content, form, and context of that speech, as revealed *by the whole record*.”⁷ Indeed, in other areas of First Amendment law, the speech at issue is considered as a whole.⁸ Such a holistic approach is especially appropriate here because Sobin’s inclusion of the photographs on the website and leaflets is an integral part of his message. As Sobin explains in his brief, the inclusion of the photographs was an attempt to subject Gray—whom he portrays as the human face of the evil sex-offender registry—to the same kind of public exposure to which the registry exposes *him*, which includes posting his photograph on the internet. Without the photographs of Gray, that aspect of Sobin’s message would be lost.

In this respect, this case is analogous to *Ostergren v. Cuccinelli*,⁹ where the Fourth Circuit recognized the same principle. The plaintiff there was a privacy advocate who objected to the practice of some Virginia counties of posting land records on the internet without redacting social security numbers. To call attention to this practice (in the hope of ending it) Ostergren downloaded some of these records and posted them on her own website—unredacted social security numbers and all. Virginia enacted a statute prohibiting this practice, and Ostergren sought and obtained an injunction prohibiting the state from enforcing the statute against her.

7. 131 S. Ct. at 1216 (emphasis added) (internal quotation marks and citation omitted).

8. *See, e.g., Roth v. United States*, 354 U.S. 476, 488–89 (1957) (obscenity); *Johnsen v. Indep. Sch. Dist. No. 3 of Tulsa County, Okla.*, 891 F.2d 1485, 1492–93 (10th Cir. 1989) (government-employee speech); *Eiland v. City of Montgomery*, 797 F.2d 953, 956–58 (11th Cir. 1986) (same).

9. 615 F.3d 263 (4th Cir. 2010).

The injunction was largely affirmed on appeal; what is relevant here is that the state argued that Ostergren’s re-posting of the unredacted records was unprotected because she could have made her point (that the unredacted records should never have been posted) without herself re-posting the unredacted records. The argument was rejected: “The unredacted SSNs on Virginia land records that Ostergren has posted online are integral to her message. Indeed, they *are* her message. Displaying them proves Virginia’s failure to safeguard private information and powerfully demonstrates why Virginia citizens should be concerned.”¹⁰ Sobin’s publication of Gray’s photograph is similarly integral to his message, and it is similarly protected.

II. The protected status of the website and leaflets is not affected by the factors Gray relies on.

A. The website and leaflets are protected despite their emotional effect on Gray.

Many people would regard Sobin’s website and leaflets being mean-spirited and obnoxious. But such value judgments play no role under the First Amendment. As exemplified by *Snyder v. Phelps*, where the Westboro Baptist Church’s repugnant speech was held to be protected, free speech isn’t always pretty.

1. *Snyder* makes it clear that speech in public that deals with matters of public concern cannot be restricted merely because it may cause emotional harm. The Court held the speech at issue to be protected even though it was “particularly hurtful”—so hurtful, in fact, that the Court thought that the phrase “emotional distress” “fails to fully capture the anguish Westboro’s choice [to picket at the funeral of Mr. Snyder’s son] added to Mr. Snyder’s already incalculable grief.”¹¹ If the speech in *Snyder* was protected, Sobin’s website and leaflets are protected *a fortiori*.

10. 615 F.3d at 271 (emphasis in the original).

11. 131 S. Ct. at 1218.

Snyder also shows (as does the earlier decision in *Hustler Magazine, Inc. v. Fallwell*¹²) that emotionally-distressing speech on a matter of public concern is protected even if the speaker intends to cause emotional distress. In both *Snyder* and *Hustler*, the speaker had been found liable for intentional infliction of emotional distress.

While an intention to cause emotional distress may at first glance seem not to deserve protection, such an intention may have a legitimate basis. There is nothing wrong with thinking that someone who has done something bad ought to feel bad about it. And it is reasonable to think that in such a situation, it is appropriate to cause that person to feel bad.¹³ Thus, if one accepts Sobin's premise that sex-offender registries are evil and that Gray is doing evil by helping to put that evil into effect, then she *should* be made to feel bad. On the other hand, someone who disagrees with Sobin might think that he is the one who is acting badly and who should be made to feel bad. Indeed, Gray herself probably feels that way, and she would be well within her rights not only to express that view but to do so with the intention of making Sobin experience emotional distress—for example, by publishing an ad in the *Washington Post* publicizing the details of his sex-offense conviction.

12. 485 U.S 46 (1988).

13. See, e.g., Eugene Volokh, *One-to-One Speech vs. One-to-Many Speech, Criminal Harassment Laws, and "Cyberstalking"*, 107 Nw. U. L. Rev. 731, 773 (2013) (hereinafter, *One-to-One Speech vs. One-to-Many Speech*) ("When speakers criticize a person for what they see as serious ethical failings—whether that person is a supposedly corrupt or oppressive politician, hypocritical religious leader, biased journalist, bigoted police officer, dishonest or rude professional or business owner, or unfaithful ex-lover—they often believe that the target of the speech should feel bad because of the target's misconduct.").

But just as Gray would have such a right, Sobin cannot be denied the same right. The determination of whether particular speech is protected cannot turn on whether or not the judge sympathizes with the point of view that is expressed.¹⁴

The conclusion that Sobin's speech is protected is reinforced by two additional factors. *First*, this case involves communications *about* Gray, not communications *to* her. That is significant because the government has more leeway to protect Gray from receiving unwanted communications that she could not otherwise avoid than it does to prevent Sobin from communicating about Gray to people who might be willing to read his message.¹⁵ *Second*, the speech about Gray relates solely to her work as a government employee. Sobin says nothing about her personal life or about her personal characteristics except insofar as they relate to his criticisms of the sex-offender registry. And there is no indication that Sobin is acting out of animus toward Gray that is unrelated to her role in administering the sex-offender registry.

2. One of Gray's points requires further discussion. She contends that a reasonable person in her shoes "would feel alarmed at the knowledge that her photograph and identifying information [i.e., her name and employer] were on a website accessible to the public and was included on fliers that could easily be picked up and distributed, possibly jeopardizing her safety."¹⁶ But the website and leaflets disclosed nothing about Gray that was not already known to the convicted felons with whom she regularly interacted as part of her job: her name, what she looks like, and where she works. Sobin disclosed no details about Gray's personal life, such as her address, her phone number, her social security number, or the names of her family members.

14. See, e.g., *R.A.V. v. City of St. Paul, Minn.*, 505 U.S. 377, 383–87, 391–92 (1992) (speech may not be restricted by reason of disagreement with its viewpoint).

15. See, e.g., *One-to-One Speech vs. One-to-Many Speech*, 107 Nw. U. L. Rev. at 742–43.

16. Gray Post-Hrg. Br. 13.

Even if Gray’s argument were stronger on the facts, it would still fail as a matter of law. Gray does not contend that the website or the leaflets were threats (in which case they would be unprotected). And in any event, there is no basis here for finding that Sobin threatened Gray. As explained by the D.C. Court of Appeals, “[S]peech is only a ‘true threat’ and therefore unprotected under the Constitution if an ‘ordinary reasonable recipient who is familiar with the[] context [of the statement] would interpret’ it as a ‘serious expression of an intent to cause a present or future harm.’”¹⁷ Neither the website nor the leaflets could reasonably be interpreted that way.

Moreover, except in circumstances that are not present here, the First Amendment protects nonthreatening speech that deals with a matter of public concern, but that exposes the subject of the speech to a risk of being harmed by some independent third person. As Judge Kozinski wrote for the court in *Planned Parenthood of Columbia/Willamette, Inc. v. American Coalition of Life Activists*, “Political speech may not be punished just because it makes it more likely that someone will be harmed at some unknown time in the future by an unrelated third party.”¹⁸ He explained that the Supreme Court had held in *Brandenburg v. Ohio*¹⁹ “that the First Amendment protects speech that encourages others to commit violence, unless the speech is capable of ‘producing imminent lawless action.’”²⁰ Under that rule, he said, “[i]t doesn’t matter if the speech makes future violence more likely; advocating ‘illegal action at some indefinite future time’ is protected.”²¹ Judge Kozinski then concluded, “If the First Amendment protects speech advocating violence, then it must also protect speech that does not advocate violence but still

17. *In re S.W.*, 45 A.3d 151, 156 (D.C. 2012) (quoting *United States v. Armel*, 585 F.3d 182, 185 (4th Cir. 2009) and *Doe v. Pulaski Cnty. Special Sch. Dist.*, 306 F.3d 616, 622 (8th Cir. 2002)) (footnotes omitted; alterations by the court).

18. 244 F.3d 1007, 1015 (9th Cir. 2001) *on reh’g en banc*, 290 F.3d 1058 (9th Cir. 2002).

19. 395 U.S. 444 (1969) (per curiam).

20. 244 F.3d at 1015 (quoting *Brandenburg*, 395 U.S. at 447).

21. *Id.* (quoting *Hess v. Indiana*, 414 U.S. 105, 108 (1973) (per curiam)).

makes it more likely.”²² To which we would add that if speech does not lose its protected status by virtue of *creating* such a risk, it does not lose its protected status merely by virtue of *generating fear* of such a risk (a fear that is, in any event, entirely unfounded in this case).

The *Planned Parenthood* case is especially pertinent here, because it involved facts much more extreme than those here. In *Planned Parenthood*, an anti-abortion website posted the names and addresses of doctors who performed abortions.²³ Given the history of violence against abortion providers, that website created a very real risk of harm to the doctors who were identified, yet that risk—which dwarfs any risk that might exist here—did not render the website unprotected.²⁴

B. The question whether 300 Indiana Avenue is a public forum is irrelevant, because Gray is complaining about the leaflets based on the viewpoint they express.

Gray contends that Sobin had no constitutional right to distribute leaflets inside the building where CSOSA is located because the building is not a public forum. But even if Gray is correct about the building’s status, that does not mean that Sobin’s leaflets have no First Amendment protection. Although the government may impose reasonable restrictions on speech in a government building that is not a public forum, such restrictions must “not [be] an effort to suppress the speaker’s activity due to disagreement with the speaker’s view.”²⁵

22. *Id.*

23. 244 F.3d at 1012–13.

24. *Id.* at 1014–16. On rehearing en banc, the court held that the website constituted a threat and was unprotected for that reason. *Planned Parenthood of Columbia/Willamette, Inc. v. American Coalition of Life Activists*, 290 F.3d 1058, 1077–82 (9th Cir. 2002) (en banc). But it said that the website would have been protected if it “had merely endorsed or encouraged the violent actions of others[.]” *Id.* at 1072. Thus, the en banc court agreed with the panel that if the website did not constitute a threat, the fact that it created a risk of violence by third parties would not render it unprotected. As noted above, Sobin’s website and leaflets cannot be construed as threats.

25. *Int’l Soc. for Krishna Consciousness, Inc. v. Lee*, 505 U.S. 672, 678–79 (1992). See also, e.g., *Arkansas Educ. Television Comm’n v. Forbes*, 523 U.S. 666, 677 (1998); *Cornelius v. NAACP Legal Def. & Educ. Fund, Inc.*, 473 U.S. 788, 800 (1985).

But Gray seeks here to restrict Sobin’s speech precisely because she dislikes the viewpoint it expresses. She presumably would not have sought a CPO if Sobin had distributed leaflets with a flattering picture of her that said, “Stephanie Gray is an exemplary public servant and an very nice person.” Her petition expressly complained about the fact that Sobin was writing “de-rogatory information” about her. And it is the leaflets’ viewpoint—their portrayal of Gray in an unfavorable light—that provides the only possible basis for thinking that Sobin should have known that they would cause emotional distress. So a finding that Sobin is guilty of stalking would necessarily be based on Gray’s displeasure at the leaflets’ point of view.

A. The taking of Gray’s photograph was lawful and did not violate her reasonable expectation of privacy.

- 1. The prohibition on photography in GSA-controlled space did not apply, because CSOSA’s office was not under GSA’s authority.*

In contending that it was illegal to take her photograph in CSOSA’s office, Gray relies on the GSA regulation providing that in space “occupied by a tenant agency[,]” photographs may be taken for noncommercial purposes “only with the permission of the occupying agency concerned[.]”²⁶ That restriction does not apply to all property occupied by a federal agency; rather, as Gray acknowledges, it applies to “property under the authority of the U.S. General Services Administration.”²⁷ But Gray has not shown that CSOSA’s office was “under [GSA’s] authority,” and it appears from GSA’s publicly-available records that it was not.

CSOSA’s office is located in the Metropolitan Police Headquarters at 300 Indiana Ave., N.W., under “a year-to-year lease from the District of Columbia government.”²⁸ However, the mere fact that CSOSA is a federal agency does not mean that its office is under GSA’s control.

26. 41 C.F.R. § 102-74.420(a), *quoted in* Gray Post-Hrg. Br. 5 n.14.

27. 41 C.F.R. § 102-74.365.

28. Gray Post-Hrg. Br. 5.

Gray relies on 41 C.F.R. § 102-85.35, which defines the phrase “federally controlled space” as “workspace for which the United States Government has a right of occupancy...by lease” and the phrase “GSA-controlled space” as “Federally controlled space under the custody or control of GSA.”²⁹ But contrary to what Gray seems to suggest, those definitions do not state that all federally-leased space is under GSA control; rather, they show that “GSA-controlled space” is a subset of “federally controlled space.” Indeed, § 102-85.35 includes a definition for the phrase “agency-controlled and/or operated space,” thereby confirming that there exists federally controlled space that is not controlled by GSA.

The regulations Gray relies on do not identify which federally-leased properties are controlled by GSA, and Gray cites nothing that addresses the question whether CSOSA’s office is in fact under GSA’s authority. Moreover, GSA’s inventory of leased space in the District of Columbia shows that CSOSA the office was *not* under its control. The inventory is available on the GSA’s website, and it provides a list of the buildings in the District in which GSA leases space.³⁰ The building that houses CSOSA—300 Indiana Ave., N.W.—is not listed.³¹

In short, GSA had no authority over the CSOSA offices. The restrictions on photography in space under GSA’s control were therefore inapplicable.³²

29. 41 C.F.R. § 102-85.35, *cited and partially quoted in* Gray Post-Hearing Br. 4–5.

30. General Services Administration (GSA) Inventory of Leased and Owned Properties, National Map > Region 11: National Capital > District of Columbia, <http://www.iolp.gsa.gov/iolp/BuildingsList.asp?sID=11> (viewed Dec. 14, 2013; *also available at* <http://tinyurl.com/GSA-Invntry>) (copy attached as Exhibit 2). Although the left-hand column on this inventory page is entitled “Leased Buildings” rather than “Leased Space,” it includes buildings in which GSA leases only a portion of the space. *See* Exhibit 3.

31. Nor is it listed on the inventory as it appeared on June 22, 2011, which is the most recent pre-2013 version of the inventory that was captured and saved by the Internet Archive.<http://web.archive.org/web/20110622000811/http://www.iolp.gsa.gov/iolp/BuildingsList.asp?sID=11> (viewed Dec. 14, 2013; *also available at* <http://tinyurl.com/GSA2011Inventory>) (copy attached as Exhibit 4).

32. Even if those restrictions applied, they would not provide Gray with any privately-enforceable rights. “[I]t is most certainly incorrect to say that language in a regulation can conjure up a private cause of action that has not been authorized by Congress.” *Alexander v. Sandoval*, 532 U.S. 275, 291 (2001).

2. *Gray's privacy was not violated by the taking of her photograph in her workplace, while she was performing her official duties.*

Contrary to Gray's contention, her privacy was not violated by having her picture taken while she was performing her official duties in her governmental workspace, in the presence of members of the public who were lawfully present. Nor was her privacy violated by the publication of those photographs on Sobin's website and leaflets.

Gray relies on case law under the Fourth Amendment, which does not apply here because this case involves no governmental action. The more appropriate cases are those involve the tort of invasion of privacy. But whichever line of cases one looks to, the result is the same.

1. *The Fourth Amendment.* Gray's argument is undermined by two Fourth Amendment principles that she ignores. The first is the doctrine of "plain view," which provides that one has no reasonable expectation of privacy with regard to something that is in the plain view of someone whose ability to see it was not the result of an improper intrusion.³³ As the Supreme Court has explained, "If an article is already in plain view, neither its observation nor its seizure would involve any invasion of privacy."³⁴

The second principle arises from cases involving recordings of a person that were surreptitiously made by an informant or undercover agent. These cases hold that the subject's reasonable expectation of privacy is not violated by the recording, because by willingly interacting with the informant or agent (albeit without knowing the informant or agent's status as such), the subject had no reasonable expectation that what happened would remain private.³⁵

33. *E.g., Horton v. California*, 496 U.S. 128, 134–37 (1990). *See also, e.g., Illinois v. Andreas*, 463 U.S. 765 (1983) ("The plain view doctrine is grounded on the proposition that once police are lawfully in a position to observe an item first-hand, its owner's privacy interest in that item is lost[.]").

34. *Horton*, 496 U.S. at 133.

35. *E.g., United States v. Caceres*, 440 U.S. 741, 751 (1979); *United States v. White*, 401 U.S. 745, 751 (1971); *United States v. Nerber*, 222 F.3d 597, 599, 604 (9th Cir. 2000) (video recording).

Thus, if the interaction itself did not violate the subject's reasonable expectation of privacy, then neither would a recording that captured what the informant or agent directly perceived.

If the Fourth Amendment applied here, this case is within the scope of these principles. To begin with, it is apparent on the face of the photographs that Gray was in plain view of the photographer—for otherwise the camera could not have captured her picture. And the presence of Sobin and his companion in CSOSA's office did not represent an improper intrusion of any sort. Gray does not contend that they were in the office without permission, or that either of them somehow concealed their presence from her. Nor does she contend that she had taken steps to avoid being seen by them or that she didn't realize that they could see her. She therefore had no expectation of privacy—reasonable or otherwise—as to what is shown in the photographs.³⁶

This conclusion is not changed by the fact that the photographs were taken without Gray's knowledge—and this is where the informant/undercover agent cases become relevant. The Supreme Court has held that when *A* is talking with *B*, *A*'s reasonable expectation of privacy is not violated if *B* is surreptitiously recording the conversation:

If the conduct and revelations of an agent operating without electronic equipment do not invade the defendant's constitutionally justifiable expectations of privacy, neither does a simultaneous recording of the same conversations made by the agent or by others from transmissions received from the agent to whom the defendant is talking and whose trustworthiness the defendant necessarily risks.³⁷

This principle applies as well to surreptitious photography. In *United States v. Nerber*, the defendants had been videotaped without their knowledge while they were visiting the occupants of a hotel room (who were actually informants) for the purpose of buying drugs. The court held that the videotaping did not violate the defendants' reasonable expectation of privacy: “[W]hen the

36. See, e.g., *People v. Green*, 700 N.E.2d 1097, 1102 (Ill. Ct. App 1998) (“Generally, police surveillance involving the use of photography to memorialize what has been seen by the naked eye does not constitute a search if the observation itself was not a search.”); 1 Wayne R. LaFare, *Search & Seizure* §§ 2.2(a) at n.16, 2.2(c) at n.141 (5th ed. Westlaw 2013).

37. *Caceres*, 440 U.S. at 751 (internal quotation marks and citation omitted).

informants were in the room the video surveillance was conducted with their consent, and defendants bore the risk that their activities with the informants were being surveilled.”³⁸

2. *Invasion of privacy.* We turn now to the field of law that does apply here: the tort of invasion of privacy. As the Court of Appeals has recognized, the tort comes in four varieties: “(1) intrusion upon one’s solitude or seclusion; (2) public disclosure of private facts; (3) publicity that places one in a false light in the public eye; and (4) appropriating one’s name or likeness for another’s [commercial] benefit.”³⁹ None of these torts was committed here: Gray was not secluded but at her public workplace; no private facts were disclosed; no false statements were made; and Mr. Sobin’s flyers and website are entirely non-commercial.

The conclusion that Gray’s privacy was not invaded is supported by cases involving “hidden camera” newsgathering. In these cases, reporters (or people working in concert with reporters) gained entrance to business premises under false pretenses, and then used hidden cameras to record what went on during their visits. In one case, several persons working for the ABC television program *Prime Time Live* posed as patients and obtained eye examinations from a doctor who the program was investigating; they used hidden cameras to record the examinations.⁴⁰ And in another, producers of another ABC news program obtained a meeting with the owner of a medical lab under false pretenses and recorded the meeting using hidden video cameras.⁴¹ In each case, the court held that there had been no invasion of privacy.⁴²

To be sure, there are situations in which, despite *A*’s having no reasonable expectation of privacy as to *B* with regard to their in-person interaction, surreptitious photography or video-

38. 222 F.3d at 604.

39. *Danai v. Canal Square Associates*, 862 A.2d 395, 399 n.2 (D.C. 2004).

40. *Desnick v. American Broadcasting Companies, Inc.*, 44 F.3d 1345 (7th Cir. 1995).

41. *Med. Lab. Mgmt. Consultants v. Am. Broad. Companies, Inc.*, 306 F.3d 806 (9th Cir. 2002).

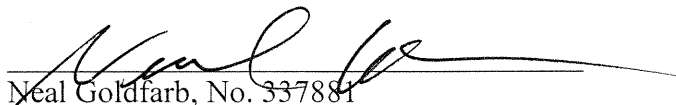
42. *Med. Lab. Mgmt. Consultants*, 306 F.3d at 813–19; *Desnick*, 44 F.3d at 1353.

recording by *B* would violate *A*'s reasonable expectation of privacy—for example, if *B* used a hidden camera to surreptitiously videotape himself having consensual sex with *A*.⁴³ In such a case, there would be an invasion of the *A*'s privacy because of the intimate nature of the conduct and the heightened privacy associated with the bedroom. But no such factors are present here. The photographs of Gray do not show her engaged in any intimate or highly personal conduct, but instead merely show her performing her job duties. The photographs were taken in her workplace, not her home (much less her bedroom), and her duties required her to regularly interact with members of the public. And because Gray's relationship with Sobin was professional, not personal, she had no reason to expect that he would keep any details of their interaction private.⁴⁴

Conclusion

The petition for a civil protective order should be denied.

Respectfully submitted,



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43. See, e.g., *Lewis v. LeGrow*, 670 N.W.2d 675, 687–89 (Mich. Ct. App. 2003); *State v. O'Brien*, 774 A.2d 89, 91–93, 109 (R.I. 2001); *State v. Jahnke*, 762 N.W.2d 696, 698 (Wis. Ct. Ap. 2009).

44. Even if, despite what we have said, Gray had some residual privacy interest, it would have to “give way when balanced against the interest in publishing matters of public importance.” *Bartnicki v. Vopper*, 532 U.S. 514, 534 (2001). As the Supreme Court pointed out in *Bartnicki*, “Exposure of the self to others in varying degrees is a concomitant of life in a civilized community. The risk of this exposure is an essential incident of life in a society which places a primary value on freedom of speech and of press.” *Id.* (internal quotation marks and citation omitted). Gray's job required her to deal with members of the public while at the office. That necessary exposure cannot be construed as an invasion of privacy “in a society which places a primary value on freedom of speech and of press.”

Certificate of Service

I HEREBY CERTIFY that on this 27th day of December, 2013, copies of the foregoing brief were served on the following by first-class mail, postage prepaid:

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EXHIBIT 1

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
FAMILY DIVISION

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:
STEPHANIE GRAY, : Docket Number: 2013 CPO 003690
:
Petitioner, :
:
vs. :
:
DENNIS SOBIN, :
:
Respondent. :
: Friday, November 1, 2013
----- x Washington, D.C.

The above-entitled action came on for a hearing
before the Honorable TODD E. EDELMAN, Associate Judge, in
Courtroom Number 114.

APPEARANCES:

On Behalf of the Petitioner:

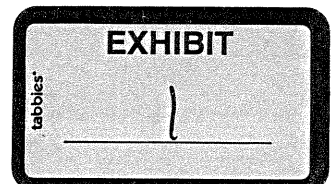
KRISTIN N. ELIASON, Esquire
KFIR B. LEVY, Esquire
Washington, D.C.

On Behalf of the Respondent:

Pro se

13-06400

Deposition Services, Inc.
12321 Middlebrook Road, Suite 210
Germantown, MD 20874
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1 MS. ELIASON: Yes, Your Honor.

2 THE COURT: And, and Exhibit No. 2 is a, a
3 printout from a website, correct?

4 MS. ELIASON: Yes, and it was also found in the
5 building as well. So -- I believe my client --

6 THE COURT: Printed out and also distributed in
7 the building.

8 MS. ELIASON: Yes.

9 THE COURT: So -- in my view, obviously the,
10 the, the language here of what he is saying is, as I
11 referenced a moment ago, the worst you can say about it is
12 it's offensive. But it's clearly political speech. And I
13 don't hear the petitioner arguing otherwise. That this is
14 -- that the content of the -- what's here is referring to
15 the people who have created the sex offender registry as
16 belonging on an idiot's registry. Comparing their work to
17 that of Nazi registration of Jews and the Salemness of
18 alleged witches. I don't think they had lists of witches,
19 did they?

20 MR. SOBIN: Your Honor, I didn't quite hear you.

21 THE COURT: Did they -- I don't think they had
22 lists of witches. I thought they just accused people.

23 MR. SOBIN: The lists --

24 THE COURT: They had lists?

25 MR. SOBIN: -- yeah, they began with lists, Your

1 Honor.

2 THE COURT: All right.

3 MR. SOBIN: Sixteen Ninety-One exactly was the
4 year.

5 THE COURT: All right. They argue that the
6 registries or the fliers, due that they're unfair and un-
7 American. They seek to punish citizens who've already
8 paid their debt to society and encourage the recipient
9 hereto to provide names of others who've contributed to
10 this. In the view of the flier, improper government
11 practice. And there's a, a photo of the petitioner,
12 labeled as the face of evil. Registry Specialist
13 Stephanie Gray. The -- Petitioner's No. 2 contains
14 essentially the same type of criticism of the sex offender
15 registry, some more information about Mr. Sobin, and three
16 photos of Ms. Evil, the, the same -- or Ms. Evil -- Ms.
17 Gray, identified as face of evil, Registry Specialist
18 Stephanie Gray. As well as two other photos, one labeled
19 path of destruction, Gray leads her victim to cubicle, and
20 information to destroy, Gray interrogates her victim. So,
21 again, the language written here is arguable offensive and
22 one may agree or disagree with the ultimate point Mr.
23 Sobin is making. But, I think that if all I had here was
24 this, this would be over right now because it is, simply,
25 political speech. The question is, whether the -- or the

jdp

1 question in my mind is, is whether the taking the
2 photograph of Ms. Gray and distributing it on these fliers
3 in this way somehow takes this out of the, the purview of
4 acceptable speech. The only testimony was that there's
5 nothing, either posted or otherwise, that states that it's
6 improper to take a photograph. I assume the petitioner's
7 argument is that's sort of implied in the situation. But
8 I'm going to, as I said, I'm not familiar enough between -
9 - of the line between doing something that's political
10 speech and, and attaching someone's photo to it, whether
11 that makes it different or not. Although I think I'm
12 going to, going to have to take some convincing that, that
13 to me it's different. I don't know whether Ms. Gray's
14 status as a public figure or not actually even matters.
15 So, I, I'm going to permit the petitioner to file
16 something setting forth their argument as to why finding
17 this to be stalking would be constitutionally permissible.
18 And I'll allow Mr. Sobin to respond. If anybody wants to
19 enter as an amicus, they do need to file something first
20 indicating to me they wish to enter the case as an amicus.
21 There is no TPO in this case, correct?

22 MS. ELIASON: Correct, Your Honor.

23 THE COURT: All right. So Ms. Eliason, how much
24 time to you think you need to do -- you need to file
25 something in this case?

EXHIBIT 2



General Services Administration (GSA) Inventory of Owned and Leased Properties

[National Map](#) > [Region 11: National Capital](#) > [District of Columbia](#)

[HELP](#)

Click on a building name for details about that building.
Click on the headings to sort by building name or by city

GSA Leased Buildings

GSA Owned Buildings

<u>Building Name</u>	<u>City</u>	<u>Building Name</u>	<u>City</u>
1 AVIATION CIR	WASHINGTON	1000 Independence Ave SW	WASHINGTON
1 AVIATION CIR	WASHINGTON	1000 INDEPENDENCE AVE SW	WASHINGTON
1 AVIATION CIR	WASHINGTON	1100 Pennsylvania Ave NW	WASHINGTON
1 MASSACHUSETTS AVE NW	WASHINGTON	1111 CONST AVE NW	WASHINGTON
1 THOMAS CIR NW	WASHINGTON	1200 PENNSYLVANIA AVE NW	WASHINGTON
1001 PENNSYLVANIA AVE NW	WASHINGTON	1201 CONSTITUTION AVE NW	WASHINGTON
1025 F STREET NW	WASHINGTON	1300 Pennsylvania Ave NW	WASHINGTON
1099 14TH STREET	WASHINGTON	1300 PENNSYLVANIA AVE NW	WASHINGTON
1100 1ST ST NE	WASHINGTON	1301 CONSTITUTION AV NW	WASHINGTON
1100 L STREET, NW	WASHINGTON	1301 CONSTITUTION AVE NW	WASHINGTON
111 MASSACHUSETTS AVE NW	WASHINGTON	1301 Constitution Ave NW	WASHINGTON
1111 18TH STREET, NW	WASHINGTON	1302 LUKE AVE SW	WASHINGTON
1111 19TH ST., NW	WASHINGTON	1400 INDEPENDENCE AVE SW	WASHINGTON
1111 20TH STREET, NW	WASHINGTON	1401 CONSTITUTION AVE NW	WASHINGTON
1111 20TH STREET, NW	WASHINGTON	1520 H STREET NW	WASHINGTON
1120 20TH ST NW	WASHINGTON	1600 PENNSYLVANIA AVE NW	WASHINGTON
1120 VERMONT AVE NW	WASHINGTON	1600 PENNSYLVANIA AVE NW	WASHINGTON
1125 15TH ST NW	WASHINGTON	1651-53 PENNSYLVANIA AVE NW	WASHINGTON
1200 1 ST STREET, NE	WASHINGTON	1724 F STREET NW	WASHINGTON
1200 NEW JERSEY AVE, SE	WASHINGTON	17TH AND PA AVE. NW	WASHINGTON
1201 15TH STREET, NW	WASHINGTON	1800 F ST NW	WASHINGTON
1201 I ST NW	WASHINGTON	1849 C ST NW	WASHINGTON
1201 MARYLAND AVE SW	WASHINGTON	1900 E ST NW	WASHINGTON
1201 New York Avenue NW NW	WASHINGTON	1951 CONSTITUTION AVE NW	WASHINGTON
1212 NEW YORK AVE NW	WASHINGTON	200 C STREET SW	WASHINGTON
122 C STREET, NW	WASHINGTON	200 CONSTITUTION AVE NW	WASHINGTON
1220 L STREET, NW	WASHINGTON	200 INDEPENDENCE AVE SW	WASHINGTON
1222 22ND ST NW	WASHINGTON	2201 C ST NW	WASHINGTON
1227 25TH STREET, NW	WASHINGTON	23 & E STREETS NW	WASHINGTON
1234 Office Building Road	WASHINGTON	23RD & E STREET NW	WASHINGTON
1250 MARYLAND AVE SW	WASHINGTON	23RD & E STREETS NW	WASHINGTON
1275 FIRST ST NE	WASHINGTON (NW)	23RD & E STREETS NW	WASHINGTON
		23RD AND E ST NW	WASHINGTON
		2401 E ST NW	WASHINGTON

EXHIBIT

2

tabbles

<u>1291 TAYLOR ST NW</u>	WASHINGTON	<u>2430 E ST NW</u>	WASHINGTON
<u>1301 K ST NW</u>	WASHINGTON	<u>2430 E ST NW</u>	WASHINGTON
<u>1301 NEW YORK AVE</u>	WASHINGTON	<u>2430 E ST NW</u>	WASHINGTON
<u>131 M ST NE</u>	WASHINGTON	<u>2701 MARTIN LUTHER KING JR</u>	WASHINGTON
<u>1310 G ST NW</u>	WASHINGTON	<u>AVE SE</u>	
<u>1310 L STREET N W</u>	WASHINGTON	<u>2701 SOUTH CAPITOL ST.</u>	WASHINGTON
<u>1325 G ST, NW</u>	WASHINGTON	<u>ANACOSTIA NAVAL STATION</u>	
<u>1331 F STREET NW</u>	WASHINGTON	<u>2701 SOUTH CAPITOL ST.</u>	WASHINGTON
<u>1331 PENN AVENUE,NW</u>	WASHINGTON	<u>ANACOSTIA NAVAL STATION</u>	
<u>1341 G ST NW</u>	WASHINGTON	<u>2701 SOUTH CAPITOL STREET</u>	WASHINGTON
<u>1400 K ST NW</u>	WASHINGTON	<u>SW ANACOSTIA NAVAL</u>	WASHINGTON
<u>1400 L STREET NW</u>	WASHINGTON	<u>STATION</u>	
<u>1400 NEW YORK AVE NW</u>	WASHINGTON	<u>2702 S CAPITOL ST SE</u>	WASHINGTON
<u>1401 H ST NW</u>	WASHINGTON	<u>ANACOSTIA NAVAL STATION</u>	
<u>1425 NEW YORK AVE NW</u>	WASHINGTON	<u>300 12th Street SW</u>	WASHINGTON
<u>1441 L ST</u>	WASHINGTON	<u>301 7th St SW</u>	WASHINGTON
<u>145 N STREET, NE</u>	WASHINGTON	<u>320 FIRST STREET NW</u>	WASHINGTON
<u>1575 EYE STREET, NW</u>	WASHINGTON	<u>330 C ST SW</u>	WASHINGTON
	(NW)	<u>330 INDEP AVE SW</u>	WASHINGTON
<u>1615 M STREET, NW</u>	WASHINGTON	<u>333 CONSTITUTION AVE NW</u>	WASHINGTON
<u>1620 L ST NW</u>	WASHINGTON	<u>333 CONSTITUTION AVE. NW,</u>	WASHINGTON
<u>1629 K STREET, NW</u>	WASHINGTON	<u>3801 NEBRASKA AVENUE, NW</u>	WASHINGTON
<u>1717 H ST NW</u>	WASHINGTON	<u>400 MARYLAND AVE SW</u>	WASHINGTON
<u>1717 PENNSYLVANIA</u>	WASHINGTON	<u>400 SECOND STREET NW</u>	WASHINGTON
<u>AVENUE, NW</u>	(NW)	<u>401 14TH ST SW</u>	WASHINGTON
<u>1722 I STREET NW</u>	WASHINGTON	<u>450 E ST NW</u>	WASHINGTON
<u>1730 M STREET MW</u>	WASHINGTON	<u>451 7TH STREET SW</u>	WASHINGTON
<u>1735 NEW YORK AVE N.W</u>	WASHINGTON	<u>5TH & F STREETS, NW</u>	WASHINGTON
<u>1750 PENNSYLVANIA AVE</u>	WASHINGTON	<u>600 INDEPENDENCE AVE SW</u>	WASHINGTON
<u>NW</u>		<u>600 Pennsylvania Avenue NW</u>	WASHINGTON
<u>1776 G ST NW</u>	WASHINGTON	<u>600 SEVENTEENTH STREET</u>	WASHINGTON
<u>1800 G ST NW</u>	WASHINGTON	<u>601 - 4TH ST, NW</u>	WASHINGTON
<u>1800 M ST NW</u>	WASHINGTON	<u>633 Third Street, NW</u>	WASHINGTON
<u>1801 L ST NW</u>	WASHINGTON	<u>708 JACKSON PLACE NW</u>	WASHINGTON
<u>1900 HALF ST SW</u>	WASHINGTON	<u>712 JACKSON PL NW</u>	WASHINGTON
<u>1905 9TH ST NE</u>	WASHINGTON	<u>716 JACKSON PLACE NW</u>	WASHINGTON
<u>1990 K ST NW</u>	WASHINGTON	<u>717 MADISON PL NW</u>	WASHINGTON
<u>2 MASSACHUSETTS AVE NE</u>	WASHINGTON	<u>717 MADISON PL NW</u>	WASHINGTON
<u>20 M ST SE</u>	WASHINGTON	<u>717 MADISON PL NW</u>	WASHINGTON
<u>20 MASSACHUSETTS AVE</u>	WASHINGTON	<u>718 JACKSON PL NW</u>	WASHINGTON
<u>NW</u>		<u>722 JACKSON PL NW</u>	WASHINGTON
<u>2000 L ST NW</u>	WASHINGTON	<u>725 17TH ST NW</u>	WASHINGTON
<u>2025 E ST NW</u>	WASHINGTON	<u>726 JACKSON PL NW</u>	WASHINGTON
<u>2041 MLK JR AVE, SE</u>	WASHINGTON	<u>730 JACKSON PL NW</u>	WASHINGTON
<u>2100 2ND ST SW</u>	WASHINGTON	<u>734 JACKSON PLACE NW</u>	WASHINGTON
<u>2100 K ST NW</u>	WASHINGTON	<u>736 JACKSON PLACE NW</u>	WASHINGTON

<u>2100 M STREET NW</u>	WASHINGTON	<u>740 JACKSON PLACE NW</u>	WASHINGTON
<u>2100 PENNS AVE NW</u>	WASHINGTON	<u>744 JACKSON PLACE NW</u>	WASHINGTON
<u>2121 VIRGINIA AVE N W</u>	WASHINGTON	<u>800 INDEPENDENCE AVE SW</u>	WASHINGTON
<u>2200 C STREET, NW</u>	WASHINGTON	<u>810 VERMONT AVE NW</u>	WASHINGTON
<u>25 MASSACHUSETTS AVE, NW</u>	WASHINGTON	<u>811 VERMONT AVE NW</u>	WASHINGTON
<u>2800 V ST NE</u>	WASHINGTON	<u>935 PENNSYLVANIA AVE NW</u>	WASHINGTON
<u>30 E STREET, SW</u>	WASHINGTON	<u>940 H STREET, NW</u>	WASHINGTON
<u>300 7TH ST SW</u>	WASHINGTON	<u>950 H ST NW</u>	WASHINGTON
<u>300 D STREET, SW</u>	WASHINGTON	<u>950 Pennsylvania Avenue NW</u>	WASHINGTON
<u>300 E ST SW</u>	WASHINGTON	<u>99 NEW YORK AVE NE</u>	WASHINGTON
<u>3015 V ST NE</u>	WASHINGTON	<u>Nebraska Ave Complex</u>	WASHINGTON
<u>3025 V ST NE</u>	WASHINGTON	<u>Nebraska Avenue Complex</u>	WASHINGTON
<u>3030 V STREET NE</u>	WASHINGTON	<u>NEBRASKA AVE. COMPLEX</u>	WASHINGTON
<u>3035 V STREET, NE</u>	WASHINGTON	<u>NEBRASKA AVENUE COMPLEX</u>	WASHINGTON
<u>3070 V Street NE</u>	WASHINGTON	<u>NEBRASKA AVENUE COMPLEX</u>	WASHINGTON
<u>3165 V ST NE</u>	WASHINGTON	<u>3801 NEBRASKA AVENUE</u>	WASHINGTON
<u>3298 FORT LINCOLN DRIVE</u>	WASHINGTON	<u>NEBRASKA AVENUE COMPLEX</u>	WASHINGTON
<u>3365 V ST NE</u>	WASHINGTON	<u>3801 NEBRASKA AVENUE</u>	WASHINGTON
<u>355 E ST SW</u>	WASHINGTON	<u>NEBRASKA AVENUE COMPLEX</u>	WASHINGTON
<u>375 E ST SW</u>	WASHINGTON	<u>3801 NEBRASKA AVENUE</u>	WASHINGTON
<u>395 E ST SW</u>	WASHINGTON	<u>NEBRASKA AVENUE COMPLEX</u>	WASHINGTON
<u>400 7TH ST SW</u>	WASHINGTON	<u>3801 NEBRASKA AVENUE</u>	WASHINGTON
<u>400 C ST SW</u>	WASHINGTON	<u>NEBRASKA AVENUE COMPLEX</u>	WASHINGTON
<u>400 VIRGINIA AVE SW</u>	WASHINGTON	<u>3801 NEBRASKA AVENUE</u>	WASHINGTON
<u>401 9TH STREET NW</u>	WASHINGTON	<u>NEBRASKA AVENUE COMPLEX</u>	WASHINGTON
<u>409 3RD ST. S.W.</u>	WASHINGTON	<u>3801 NEBRASKA AVENUE</u>	WASHINGTON
<u>425 3RD ST SW</u>	WASHINGTON	<u>NEBRASKA AVENUE COMPLEX</u>	WASHINGTON
<u>425 EYE STREET NW 425 EYE STREET NW</u>	WASHINGTON	<u>3801 NEBRASKA AVENUE</u>	WASHINGTON
<u>429 L'ENFANT PLAZA, SW</u>	WASHINGTON	<u>NEBRASKA AVENUE COMPLEX</u>	WASHINGTON
<u>445 12TH ST SW</u>	WASHINGTON	<u>3801 NEBRASKA AVENUE</u>	WASHINGTON
<u>450 5TH STREET, NW</u>	WASHINGTON	<u>NEBRASKA AVENUE COMPLEX</u>	WASHINGTON
<u>455 MASSACHUSETTS AVE NW</u>	WASHINGTON	<u>3801 NEBRASKA AVENUE</u>	WASHINGTON
<u>470/490 LENFANT PLZ SW</u>	WASHINGTON	<u>NEBRASKA AVENUE COMPLEX</u>	WASHINGTON
<u>500 12TH ST, SW</u>	WASHINGTON	<u>3801 NEBRASKA AVENUE</u>	WASHINGTON
<u>500 1ST ST NW</u>	WASHINGTON	<u>NEBRASKA AVENUE COMPLEX</u>	WASHINGTON
<u>500 C STREET, SW</u>	WASHINGTON	<u>3801 NEBRASKA AVENUE</u>	WASHINGTON
<u>500 E STREET SW</u>	WASHINGTON	<u>NEBRASKA AVENUE COMPLEX</u>	WASHINGTON
<u>501 3RD ST NW</u>	WASHINGTON	<u>3801 NEBRASKA AVENUE</u>	WASHINGTON
<u>501 SCHOOL ST SW</u>	WASHINGTON	<u>NEBRASKA AVENUE COMPLEX</u>	WASHINGTON
<u>515 22ND STREET., NW</u>	WASHINGTON	<u>3801 NEBRASKA AVENUE</u>	WASHINGTON
<u>518 23RD STREET, NW</u>	WASHINGTON	<u>NEBRASKA AVENUE COMPLEX</u>	WASHINGTON
<u>520 23RD ST NW</u>	WASHINGTON	<u>3801 NEBRASKA AVENUE</u>	WASHINGTON
<u>529 14TH ST NW</u>	WASHINGTON		

<u>550 12TH STREET SW</u>	WASHINGTON	<u>NEBRASKA AVENUE COMPLEX</u>	WASHINGTON
<u>555 11TH STREET, NW</u>	WASHINGTON	<u>3801 NEBRASKA AVENUE</u>	
<u>555 4TH ST NW</u>	WASHINGTON	<u>NEBRASKA AVENUE COMPLEX</u>	WASHINGTON
<u>555 NEW JERSEY AVE NW</u>	WASHINGTON	<u>3801 NEBRASKA AVENUE</u>	
<u>600 E STREET NW</u>	WASHINGTON	<u>NEBRASKA AVENUE COMPLEX</u>	WASHINGTON
<u>601 D ST NW</u>	WASHINGTON	<u>3801 NEBRASKA AVENUE</u>	
<u>601 NEW JERSEY AVE NW</u>	WASHINGTON	<u>NEBRASKA AVENUE COMPLEX</u>	WASHINGTON
<u>616 H ST NW</u>	WASHINGTON	<u>3801 NEBRASKA AVENUE</u>	
<u>625 INDIANA AVE NW</u>	WASHINGTON	<u>NEBRASKA AVENUE COMPLEX</u>	WASHINGTON
<u>633 INDIANA AVENUE, NW</u>	WASHINGTON	<u>3801 NEBRASKA AVENUE</u>	
<u>650 MASSACHUSETTS AVE NW</u>	WASHINGTON	<u>NEBRASKA AVENUE COMPLEX</u>	WASHINGTON
<u>655 15TH ST NW</u>	WASHINGTON	<u>3801 NEBRASKA AVENUE</u>	
<u>717 14TH ST NW</u>	WASHINGTON	<u>NEBRASKA AVENUE COMPLEX</u>	WASHINGTON
<u>740 - 15TH ST., NW</u>	WASHINGTON	<u>3801 NEBRASKA AVENUE</u>	
<u>750 17TH ST NW</u>	WASHINGTON	<u>NEBRASKA AVENUE COMPLEX</u>	WASHINGTON
<u>77 K ST NE</u>	WASHINGTON	<u>3801 NEBRASKA AVENUE</u>	
<u>800 9TH STREET, SW</u>	WASHINGTON	<u>NEBRASKA AVENUE- COMPLEX</u>	WASHINGTON
<u>800 K ST., N.W.</u>	WASHINGTON	<u>NEBRASKA AVENUE, NW</u>	
<u>800 N CAPITOL ST NW</u>	WASHINGTON		
<u>801 EYE ST NW</u>	WASHINGTON		
<u>810 7TH STREET NW</u>	WASHINGTON		
<u>820 1ST ST NE</u>	WASHINGTON		
<u>830 1ST ST NE</u>	WASHINGTON		
<u>WASHINGTON, DC</u>	WASHINGTON		
<u>888 1ST ST NE</u>	WASHINGTON		
<u>90 K ST NE</u>	WASHINGTON		
<u>901 D ST SW</u>	WASHINGTON		
<u>950 L'ENFANT PLAZA</u>	WASHINGTON		
<u>955 LENFANT PLZ SW</u>	WASHINGTON		
<u>999 E ST NW</u>	WASHINGTON		
<u>999 N CAPITOL ST NE</u>	WASHINGTON		

EXHIBIT 3

Exhibit 3
GSA-leased space in Washington, DC: Selected buildings

The left-hand column in GSA's inventory of property it owns or leases¹ is titled "Leased Buildings." As this table shows, however, the buildings listed in that column include buildings in which GSA leases only part of the space. This can be seen by looking at the square footage shown in the inventory (which can be accessed by clicking on the links for specific buildings on the inventory page) and comparing that figure against the building's total square footage as shown in rental information available on the internet. This table provides that information for selected buildings listed in the "Leased Buildings" column of the inventory.

Building	Leased by GSA		Total space
	Building Rentable SF	Leased Usable SF	
1001 Pennsylvania Ave., N.W. ²	30,420	26,452	713,383 ³
1 Thomas Circle, N.W. ⁴	20,907	18,225	225,440 ⁵
1111 19th Street, N.W. ⁶	64,665	57,552	827,000 ⁷
1120 20th Street, N.W. ⁸	36,490	30,410	730,000 ⁹
1125 15th St., N.W. ¹⁰	64,663	54,143	263,020 ¹¹
1227 25th Street, N.W. ¹²	35,835	29,365	135,475 ¹³
1220 L Street, N.W. ¹⁴	14,606	12,967	278,772 ¹⁵
1575 Eye Street, N.W. ¹⁶	63,798	55,637	211,593 ¹⁷

1. <http://www.iolp.gsa.gov/iolp/BuildingsList.asp?sID=11> (also available at <http://tinyurl.com/GSA-Invntry>) (copy attached as Exhibit 1)
2. <http://www.iolp.gsa.gov/iolp/BuildingInfo.asp?bID=DC0416>
3. <http://www.hines.com/property/detail.aspx?id=121>
4. <http://www.iolp.gsa.gov/iolp/BuildingInfo.asp?bID=DC0218>
5. <http://www.loopnet.com/Listing/16664384/1-Thomas-Cir-NW-Washington-DC/>
6. <http://www.iolp.gsa.gov/iolp/BuildingInfo.asp?bID=DC0448>
7. http://en.wikipedia.org/wiki/1111_19th_Street
<http://skyscraperpage.com/cities/?buildingID=48604> (listing space in square meters)
8. <http://www.iolp.gsa.gov/iolp/BuildingInfo.asp?bID=DC0432>
9. <http://www.loopnet.com/Listing/17301248/1120-20th-Street-NW-Washington-DC/>
10. <http://www.iolp.gsa.gov/iolp/BuildingInfo.asp?bID=DC0557>
11. <http://www.loopnet.com/Listing/16588849/1125-15th-St-NW-Washington-DC/>
12. <http://www.iolp.gsa.gov/iolp/BuildingInfo.asp?bID=DC0060>
13. <http://www.showcase.com/property/1227-25th-Street-NW/Washington/District-of-Columbia/129315>
<http://www.loopnet.com/Listing/18278564/1227-25th-St-NW-Washington-DC/>
14. <http://www.iolp.gsa.gov/iolp/BuildingInfo.asp?bID=DC0813>
15. <http://www.loopnet.com/Listing/17503559/1220-L-St-NW-Washington-DC/>
16. <http://www.iolp.gsa.gov/iolp/BuildingInfo.asp?bID=DC0197>
17. <http://www.loopnet.com/Listing/16869375/1575-Eye-St-NW-Washington-DC/>



EXHIBIT 4



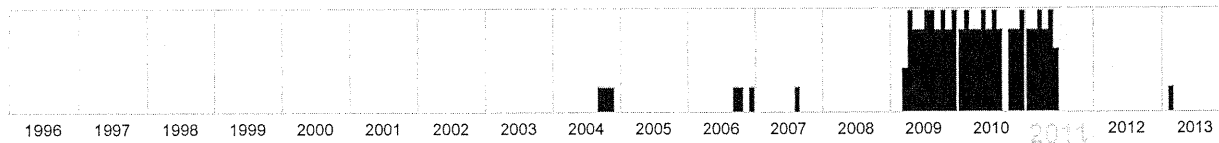
http://www.iolp.gsa.gov/iolp/BuildingsList.asp?sID=11

BROWSE HISTORY

http://www.iolp.gsa.gov/iolp/BuildingsList.asp?sID=11

Saved 124 times between September 19, 2004 and February 15, 2013.

PLEASE DONATE TODAY. Your generosity preserves knowledge for future generations. Thank you.



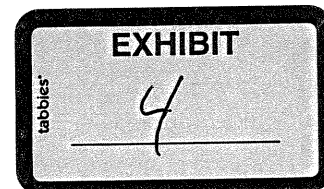
JAN							FEB					MAR					APR													
						1	1	2	3	4	5	1	2	3	4	5							1	2						
2	3	4	5	6	7	8	6	7	8	9	10	11	12	6	7	8	9	10	11	12	3	4	5	6	7	8	9			
9	10	11	12	13	14	15	13	14	15	16	17	18	19	13	14	15	16	17	18	19	10	11	12	13	14	15	16			
16	17	18	19	20	21	22	20	21	22	23	24	25	26	20	21	22	23	24	25	26	17	18	19	20	21	22	23			
23	24	25	26	27	28	29	27	28	27	28	29	30	31	24	25	26	27	28	29	30	24	25	26	27	28	29	30			
30	31																													
MAY							JUN					JUL					AUG													
1	2	3	4	5	6	7	1	2	3	4					1	2	1	2	3	4	5	6								
8	9	10	11	12	13	14	5	6	7	8	9	10	11	3	4	5	6	7	8	9	7	8	9	10	11	12	13			
15	16	17	18	19	20	21	12	13	14	15	16	17	18	10	11	12	13	14	15	16	14	15	16	17	18	19	20			
22	23	24	25	26	27	28	19	20	21	22	23	24	25	17	18	19	20	21	22	23	21	22	23	24	25	26	27			
29	30	31	26	27	28	29	30	24	25	26	27	28	29	30	28	29	30	31												
								31																						
SEP							OCT					NOV					DEC													
			1	2	3						1	1	2	3	4	5							1	2	3					
4	5	6	7	8	9	10	2	3	4	5	6	7	8	6	7	8	9	10	11	12	4	5	6	7	8	9	10			
11	12	13	14	15	16	17	9	10	11	12	13	14	15	13	14	15	16	17	18	19	11	12	13	14	15	16	17			
18	19	20	21	22	23	24	16	17	18	19	20	21	22	20	21	22	23	24	25	26	18	19	20	21	22	23	24			
25	26	27	28	29	30	23	24	25	26	27	28	29	27	28	29	30	25	26	27	28	29	30	31	25	26	27	28	29	30	31
			30	31																										

Note

This calendar view maps the number of times http://www.iolp.gsa.gov/iolp/BuildingsList.asp?sID=11 was crawled by the Wayback Machine, not how many times the site was actually updated. More info in the FAQ.

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General Services Administration (GSA) Inventory of Owned and Leased Properties

National Map > Region 11: National Capital > District of Columbia

HELP

Click on a building name for details about that building.
Click on the headings to sort by building name or by city

GSA Leased Buildings

GSA Owned Buildings

<u>Building Name</u>	<u>City</u>	<u>Building Name</u>	<u>City</u>
1 MASS AVE NW	WASHINGTON	1000 INDEP AVE SW	WASHINGTON
1 THOMAS CIRCLE	WASHINGTON	1000 INDEPENDENCE AVE SW	WASHINGTON
1025 F STREET NW	WASHINGTON	1100 PENN AVE, NW	WASHINGTON
1099 14TH STREET	WASHINGTON	1111 CONST AVE NW	WASHINGTON
1100 FIRST STREET, NE	WASHINGTON	12TH & C ST SW	WASHINGTON
1100 L STREET, NW	WASHINGTON	12TH & CONST AVE NW	WASHINGTON
111 MASS AVE NW	WASHINGTON	12TH & CONST AVE NW	WASHINGTON
1111 18TH STREET, NW	WASHINGTON	12TH & PENN AVE NW	WASHINGTON
1111 19TH ST., NW	WASHINGTON	12TH AND CONT. AVE	WASHINGTON
1111 20TH STREET, NW 1111 20TH STRE	WASHINGTON	1300 PENN AVE NW	WASHINGTON
1120 20TH ST NW	WASHINGTON	1300 PENN. AVE. N.W.	WASHINGTON
1120 VERMONT AVE	WASHINGTON	1300 PENN. AVE. N.W.	WASHINGTON
1125 15TH STREET, NW	WASHINGTON	1301 CONSTITUTION AV NW	WASHINGTON
1200 1 ST STREET, NE	WASHINGTON	1302 LUKE AVENUE	WASHINGTON
1200 NEW JERSEY AVE, SE	WASHINGTON	14TH & CONSTITUTION AVE	WASHINGTON
1201 15TH STREET, NW	WASHINGTON	14TH & INDEP AVE SW	WASHINGTON
1201 EYE ST., NW	WASHINGTON	14TH + D STREETS SW	WASHINGTON
1201 MARYLAND AVENUE, SW	WASHINGTON	1520 H STREET NW	WASHINGTON
1201-1225 NEW YORK AVENUE NW	WASHINGTON	1600 PA AVE, NW	WASHINGTON
1212 NEW YORK AVE	WASHINGTON	1600 PA AVE., NW	WASHINGTON
122 C STREET, NW	WASHINGTON	1651-53 PA AVE NW	WASHINGTON
1220 L STREET, NW	WASHINGTON	1724 F STREET NW	WASHINGTON
1222 22ND ST NW	WASHINGTON	17TH AND PA AVE. NW	WASHINGTON
1227 25TH STREET, NW	WASHINGTON	18TH AND F STS NW	WASHINGTON
1250 MARYLAND AVE SW	WASHINGTON	1900 E ST NW	WASHINGTON
1255 22ND ST NW	WASHINGTON	1951 CONST AVE NW - SOUTH INTERIOR	WASHINGTON
1275 FIRST ST NE	WASHINGTON (NW)	19TH & C STS NW	WASHINGTON
1291 TAYLOR ST NW	WASHINGTON	1ST & NEW YORK AVENUE, N.E.	WASHINGTON
1301 K ST NW	WASHINGTON	200 C STREET SW	WASHINGTON
1301 NEW YORK AVE	WASHINGTON	200 CONSTITUTION AVE NW	WASHINGTON
131 M STREET, NE	WASHINGTON	200 INDEPENDENCE AVE	WASHINGTON
1310 G ST NW	WASHINGTON	2201 C ST NW	WASHINGTON
1310 L STREET N W	WASHINGTON	2430 E ST NW	WASHINGTON
1325 G ST, NW	WASHINGTON	2430 E ST NW	WASHINGTON
1331 F STREET NW	WASHINGTON	2430 E ST NW	WASHINGTON
1331 PENN AVENUE, NW	WASHINGTON	2701 S. CAPITOL STREET ANACOSTIA NAVA	WASHINGTON
1341 G ST NW	WASHINGTON	2701 SOUTH CAPITOL ST. ANACOSTIA NAVA	WASHINGTON
1400 NEW YORK AVE NW	WASHINGTON	2701 SOUTH CAPITOL ST. ANACOSTIA NAVA	WASHINGTON
1400 K STREET	WASHINGTON	2702 S CAPITOL ST SE ANACOSTIA NAVA	WASHINGTON
1400 L STREET NW	WASHINGTON	320 FIRST STREET NW	WASHINGTON
1401 H ST NW	WASHINGTON	330 C STREET SW	WASHINGTON
1425 NEW YORK AVE NW	WASHINGTON	330 INDEP AVE SW	WASHINGTON
1440 NEW YORK AVE N W	WASHINGTON	333 CONSTITUTION AVE. NW.	WASHINGTON
1441 L ST	WASHINGTON	3801 NEBRASKA AVENUE, NW	WASHINGTON
145 N STREET, NE	WASHINGTON	400 SECOND STREET NW	WASHINGTON
1615 M STREET, NW	WASHINGTON	450 E ST NW	WASHINGTON
1620 L ST NW	WASHINGTON	451 7TH STREET SW	WASHINGTON
1629 K STREET, NW	WASHINGTON	49 L ST SE	WASHINGTON
1717 H STREET	WASHINGTON	5TH & F STREETS, NW	WASHINGTON
1717 PENNSYLVANIA AVENUE, NW	WASHINGTON (NW)	600 INDEPENDENCE SW	WASHINGTON



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1776 G ST NW	WASHINGTON	712 JACKSON PL NW	WASHINGTON
1800 G ST NW	WASHINGTON	716 JACKSON PLACE NW	WASHINGTON
1800 M ST NW	WASHINGTON	717 MADISON PLACE NW	WASHINGTON
1801 L STREET NW	WASHINGTON	718 JACKSON PL NW	WASHINGTON
1801 PENNSYLVANIA AVENUE, NW	WASHINGTON	721 MADISON PLACE NW	WASHINGTON
1900 HALF STREET	WASHINGTON	722 JACKSON PL NW	WASHINGTON
1905-B 9TH ST NE	WASHINGTON	725 17TH STREET NW	WASHINGTON
1990 K STREET N W	WASHINGTON	725 MADISON PLACE NW	WASHINGTON
2 MASSACHUSETTS AVE, NE	WASHINGTON	726 JACKSON PL NW	WASHINGTON
20 MASSACHUSETTS AVE NW	WASHINGTON	730 JACKSON PL NW	WASHINGTON
2000 L ST NW	WASHINGTON	734 JACKSON PLACE NW	WASHINGTON
2001 L STREET, NW	WASHINGTON	736 JACKSON PLACE NW	WASHINGTON
2025 E ST NW	WASHINGTON	740 JACKSON PLACE NW	WASHINGTON
2041 MLK JR AVE, SE	WASHINGTON	744 JACKSON PLACE NW	WASHINGTON
2100 2ND ST SW	WASHINGTON	7TH & CONST AVE NW	WASHINGTON
2100 K ST NW	WASHINGTON	7TH & D STREETS SW	WASHINGTON
2100 M STREET NW	WASHINGTON	800 INDEPENDENCE AVE	WASHINGTON
2100 PENNS AVE NW	WASHINGTON	810 VERMONT AVE NW	WASHINGTON
2121 VIRGINIA AVE N W	WASHINGTON	811 VERMONT AVE NW	WASHINGTON
2200 C STREET, NW	WASHINGTON	935 PENNSYLVANIA AVE NW	WASHINGTON
2401 E ST NW	WASHINGTON	940 H STREET, NW	WASHINGTON
25 MASSACHUSETTS AVE, NW	WASHINGTON	950 H ST NW	WASHINGTON
2800 V ST N.E	WASHINGTON	9TH & CONSTITUTION AVE	WASHINGTON
30 E STREET, SW	WASHINGTON	CONSTITUTION AND J MARS	WASHINGTON
300 7TH ST SW	WASHINGTON	FOURTH AND C STS SW	WASHINGTON
300 D STREET, SW	WASHINGTON	M STREET SE	WASHINGTON
300 E ST SW	WASHINGTON	M STREET SE	WASHINGTON
3025 V ST NE	WASHINGTON	NEBRASKA AVENUE COMPLEX 3801 NEBRASKA	WASHINGTON
3030 - 3070 V STREET	WASHINGTON	NEBRASKA AVENUE COMPLEX 3801 NEBRASKA	WASHINGTON
3030 V STREET NE	WASHINGTON	NEBRASKA AVENUE COMPLEX 3801 NEBRASKA	WASHINGTON
3035 V STREET, NE	WASHINGTON	NEBRASKA AVENUE COMPLEX 3801 NEBRASKA	WASHINGTON
3298 FORT LINCOLN DRIVE	WASHINGTON	NEBRASKA AVENUE COMPLEX 3801 NEBRASKA	WASHINGTON
3355- 3360 V ST., NE	WASHINGTON	NEBRASKA AVENUE COMPLEX 3801 NEBRASKA	WASHINGTON
3365 V ST NE	WASHINGTON	NEBRASKA AVENUE COMPLEX 3801 NEBRASKA	WASHINGTON
3370 V ST, NE	WASHINGTON	NEBRASKA AVENUE COMPLEX 3801 NEBRASKA	WASHINGTON
3401-03 K ST NW	WASHINGTON	NEBRASKA AVENUE COMPLEX 3801 NEBRASKA	WASHINGTON
375 E STREET, SW	WASHINGTON	NEBRASKA AVENUE COMPLEX 3801 NEBRASKA	WASHINGTON
395 E STREET, S.W.	WASHINGTON	NEBRASKA AVENUE COMPLEX 3801 NEBRASKA	WASHINGTON
400 C STREET SW	WASHINGTON	NEBRASKA AVENUE COMPLEX 3801 NEBRASKA	WASHINGTON
400 VIRGINIA AVE	WASHINGTON	NEBRASKA AVENUE COMPLEX 3801 NEBRASKA	WASHINGTON
401 9TH STREET NW	WASHINGTON	NEBRASKA AVENUE COMPLEX 3801 NEBRASKA	WASHINGTON
401-417 7TH STREET NW	WASHINGTON	NEBRASKA AVENUE COMPLEX 3801 NEBRASKA	WASHINGTON
409 12TH STREET, SW	WASHINGTON	NEBRASKA AVENUE COMPLEX 3801 NEBRASKA	WASHINGTON
409 3RD ST. S.W.	WASHINGTON	NEBRASKA AVENUE COMPLEX 3801 NEBRASKA	WASHINGTON
429 L'ENFANT PLAZA, SW	WASHINGTON	NEBRASKA AVENUE COMPLEX 3801 NEBRASKA	WASHINGTON
445 12TH ST SW	WASHINGTON	NEBRASKA AVENUE COMPLEX 3801 NEBRASKA	WASHINGTON
450 5TH STREET, NW	WASHINGTON	NEBRASKA AVENUE COMPLEX 3801 NEBRASKA	WASHINGTON
455 MASSACHUSETTS AVENUE, NW	WASHINGTON	NEBRASKA AVENUE COMPLEX 3801 NEBRASKA	WASHINGTON
470/490 LENFANT PLZ SW	WASHINGTON	NEBRASKA AVENUE COMPLEX 3801 NEBRASKA	WASHINGTON
500 12TH ST, SW	WASHINGTON	NEBRASKA AVENUE COMPLEX 3801 NEBRASKA	WASHINGTON
500 1ST ST NW	WASHINGTON	NEBRASKA AVENUE COMPLEX 3801 NEBRASKA	WASHINGTON
500 C STREET, SW	WASHINGTON	NEBRASKA AVENUE COMPLEX 3801 NEBRASKA	WASHINGTON
500 E STREET SW	WASHINGTON	NEBRASKA AVENUE COMPLEX 3801 NEBRASKA	WASHINGTON
500 N CAPITOL ST NW	WASHINGTON	NEBRASKA AVENUE COMPLEX 3801 NEBRASKA	WASHINGTON
501 3RD ST NW	WASHINGTON	NEBRASKA AVENUE COMPLEX 3801 NEBRASKA	WASHINGTON
501 SCHOOL ST S.W	WASHINGTON	NEBRASKA AVENUE COMPLEX 3801 NEBRASKA	WASHINGTON
515 22ND STREET., NW	WASHINGTON	NEBRASKA AVENUE COMPLEX 3801 NEBRASKA	WASHINGTON
518 23RD STREET, NW	WASHINGTON	NEBRASKA AVENUE COMPLEX 3801 NEBRASKA	WASHINGTON
520 23RD ST NW	WASHINGTON		
529 14TH ST., NW	WASHINGTON		
550 12TH STREET SW	WASHINGTON		
555 11TH STREET, NW	WASHINGTON		
555 4TH STREET, NW	WASHINGTON		

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601 NEW JERSEY AVENUE NW	WASHINGTON
616 H STREET NW	WASHINGTON
624 9TH STREET NW	WASHINGTON
625 INDIANA AVE N.W.	WASHINGTON
633 INDIANA AVENUE, NW	WASHINGTON
650 MASS. AVE. N.W.	WASHINGTON
655 15TH STREET, NW	WASHINGTON
740 - 15TH ST., NW	WASHINGTON
750 17TH ST NW	WASHINGTON
7820 EASTERN AVE NW	WASHINGTON
799 9TH ST., NW	WASHINGTON
800 9TH STREET, SW	WASHINGTON
800 F ST, NW	WASHINGTON
800 K ST., N.W.	WASHINGTON
800 N CAPITOL ST NW	WASHINGTON
801 EYE ST., N.W.	WASHINGTON
810 7TH STREET NW	WASHINGTON
820 FIRST ST NE	WASHINGTON
830 FIRST STREET, NE WASHINGTON, DC	WASHINGTON
888 FIRST ST NE	WASHINGTON
901 D STREET S.W.	WASHINGTON
950 L'ENFANT PLAZA	WASHINGTON
955 L'ENFANT PLAZA, SW	WASHINGTON
999 E ST NW	WASHINGTON
REAGAN NATIONAL AIRPORT	WASHINGTON
RONALD REAGAN NATIONAL AIRPORT	WASHINGTON
RONALD REAGAN NATIONAL AIRPORT	WASHINGTON