

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA	)	
	)	CR. NO. 05-394 (RBW)
v.	)	
	)	
I. LEWIS LIBBY,	)	
also known as "Scooter Libby"	)	

**GOVERNMENT’S MEMORANDUM REGARDING DISCLOSURE  
OF SENTENCING LETTERS**

The UNITED STATES OF AMERICA, by its attorney, PATRICK J. FITZGERALD, Special Counsel, respectfully submits this Memorandum in response to the Court’s order of May 17, 2007, which requested the views, if any, of the parties regarding whether the letters submitted on behalf of the defendant should be sealed or instead made public.

The government notes that letters of current and former public officials may be presumptively disclosable and deserving of separate treatment. *United States v. Kushner*, 349 F. Supp.2d 892, 906-907 (D.N.J. 2005). However, at this time the government takes no position regarding the propriety of disclosing the sentencing letters submitted in this case because that issue depends generally on this Court’s treatment of the letters in formulating the sentence, (*see id.* at 904-910), a matter that has yet to be determined.

In an abundance of caution, the government has filed a redacted version of its Sentencing Memorandum pending a ruling by the Court on this issue.

Respectfully submitted,

/s/  
 \_\_\_\_\_  
 PATRICK J. FITZGERALD  
 Special Counsel  
 219 South Dearborn Street  
 Chicago, Illinois 60604  
 (312) 353-5300

Dated: May 25, 2007

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that on this 25<sup>th</sup> day of May 2007, I caused true and correct copies of the foregoing to be served on the following parties:

William Jeffress, Esq.  
Baker Botts  
The Warner  
1299 Pennsylvania Avenue, N.W.  
Washington, DC 20004-2400  
Facsimile: 202-585-1087

Theodore V. Wells, Esq.  
Paul Weiss  
1285 Avenue of the Americas  
New York, NY 10019-6064  
Facsimile: 212-373-2217

John D. Cline, Esq.  
Jones Day  
555 California Street  
San Francisco, CA 94104  
Facsimile: 415-875-5700

Patrick J. Fitzgerald  
Special Counsel  
U.S. Department of Justice  
10<sup>th</sup> & Constitution Ave., NW  
Washington, D.C. 20530  
202-514-1187

By: /s/ Kathleen M. Kedian  
Deputy Special Counsel