

U.S. Department of  
Homeland Security

United States  
Coast Guard



Office of the Administrative Law Judge  
United States Coast Guard

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16 September 2019

Andrew Free  
MuckRock News  
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RE: DHS FOIA Appeal Number 2019-HQAP-00299; FOIA Request Number: 2019-HQFO-00729

Dear Mr. Free:

This letter concerns your appeal of the Department of Homeland Security's (DHS) Privacy Office (PRIV) adverse response to your FOIA request 2019-HQAP-00299. In your initial request on May 9, 2019, you sought:

1. All materials provided to DHS by ICE in response to the July 10, 2018 ERO Re-Tasking by S1 "Overview of the Voluntary Work Program", which was delivered to the Secretary's office on or about July 12, 2018.
2. All materials provided to DHS by ICE in response to the June 4, 2018 Request for information by S1 "Overview of the Voluntary Work Program," which was responded to on or about June 12, 2018.
3. All DHS "Front Office" records regarding the Voluntary Work Program created on or after February 14, 2018.
4. All records of communications between The GEO Group, Inc. and the office of the Secretary of Homeland Security occurring on or after February 14, 2018, regarding ICE's Voluntary Work Program or lawsuits involving the Voluntary Work Program.
5. All records of communication between the office of former ICE Director Thomas Homan and DHS Headquarters, including the Secretary of Homeland Security's office, regarding ICE's Voluntary Work Program or litigation pertaining thereto from January 1, 2017 to the present.
6. All records of communications from DHS to the Department of Labor or the Department of Justice regarding ICE's Voluntary work program
7. All records of any meetings, calls, or emails regarding any subject other than the Voluntary Work Program between any representative of The GEO Group, Inc. and the Secretary of Homeland Security's office from February 14, 2018 to the present.

DHS responded to your request on June 5, 2019, and informed you it was responding to items 1 and 2, but found your requests in 3-7, overbroad and/or did not specifically identify the records you were seeking.

Pursuant to a memorandum of agreement, the United States Coast Guard Office of the Chief Administrative Law Judge is reviewing FOIA appeals for the Department of Homeland Security General Counsel's office. Therefore, the Office of the Chief Administrative Law Judge hereby renders the official appeal decision on behalf of the Department of Homeland Security.

Upon review of the file, I am **REMANDING** this case for corrective processing.

Pursuant to the Freedom of Information Act, a FOIA request must reasonably describe the records sought. 5 U.S.C. § 552(a)(3)(A). A request is sufficient if it enable a professional agency employee familiar with the subject area to locate the record with a "reasonable amount of effort." *Truitt v. Dep't of State*, 897 F.2d 540 (D.C. Cir. 1980). Federal courts explain that "[t]he rationale for this rule is that FOIA was not intended to reduce government agencies to full-time investigators on behalf of requestors, or to allow requestors to conduct "fishing expeditions" through agency files." For example, if a FOIA request is unreasonable if it requires the agency employees to have "clairvoyant capabilities" to discern the requestors needs or requires countless number of hours seeking needles in a bureaucratic haystack.

On the other hand, FOIA does not require that documents be identified with exacting particularities or be models of clarity. *Conservation Force v. Ashe*, 979 F. Supp. 2d 90, 101 (D.D.C. 2013). Rather, requested records must only be "reasonably describe[d]." 5 U.S.C. § 552(a)(3)(A).

My research shows numerous courts approved FOIA requests like yours seeking "all documents" pertaining to specific topics. *E.g.*:

*Morley v. C.I.A.*, 508 F.3d 1108, 1113 (D.C. Cir. 2007) (enforcing FOIA request for "all records pertaining to CIA operations officer George Efythron Joannides");

*LaCedra v. Executive Office for U.S. Attorneys*, 317 F.3d 345, 348 (D.C. Cir. 2003) (reversing summary judgment where agency failed to search for documents responsive to request for "all documents pertaining to my case");

*Ruotolo v. Dep't of Justice, Tax Div.*, 53 F.3d 4 (2d Cir. 1995) (reversing summary judgment where agency failed to establish undue burden in response to FOIA requests for "all FOIA requests," "all Vaughan indexes," "all the pertinent parts of any Court Orders," and "all pertinent parts of any taxpayers' motions and briefs" regarding described topics);

*Yeager v. Drug Enforcement Admin.*, 678 F.2d 315, 326 (D.C. Cir. 1982) (enforcing FOIA request for "all the records" within a particular computer system);

*Wildlands CPR v. U.S. Forest Serv.*, 558 F. Supp. 2d 1096, 1101-02 (D. Mont. 2008) (approving FOIA requests seeking "all records that relate to various topics");

*McNamara v. U.S. Dep't of Justice*, 949 F. Supp. 478, 484-85 (W.D. Tex. 1996) (holding that federal agencies should not have unilaterally narrowed FOIA request that sought "information pertaining" to a particular conspiracy).

After reviewing this appeal, I find your request categorically indistinguishable from the FOIA requests enforced in the foregoing cases. Therefore, I am **REMANDING** this

matter to PRIV for corrective processing. PRIV shall have 15 days to provide you with an updated response.

Please note, nothing in this letter prevents DHS, or a responsive Agency after conducting a search, from asserting any privileges applicable under FOIA. Neither does this letter prevent DHS from informing you it does not have responsive documents, if no documents are discovered after reasonable search. Moreover, because you did not identify which specific office or Agency that might have responsive documents, the Agency may decide, pursuant to 6 C.F.R. § 5.3 which office may have responsive documents before conducting the search, i.e., DHS need not search each and every Agency in the Department, unless it determines each Agency might have responsive materials.

Once the Agency conducts the search, it will provide you with an updated letter within 15 days of this decision. If however you do not receive an updated response from DHS, I, or another attorney, will provide you with a letter granting final Agency action so that you may enter federal court pursuant to 5 U.S.C. §552(a)(4)(B).

Notwithstanding the above decision, as part of the 2007 FOIA amendments, the Office of Government Information Services (OGIS) was created to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. If you are requesting access to your own records (which is considered a Privacy Act request), you should know that OGIS does not have the authority to handle requests made under the Privacy Act of 1974. If you wish to contact OGIS, you may email them at [ogis@nara.gov](mailto:ogis@nara.gov) or call 1-877-684-6448.

Sincerely,

Tommy B. Cantrell  
Attorney-Advisor  
United States Coast Guard  
United States Department of Homeland Security

Copy : FOIA Officer  
Sent: Via first class mail to the above address.