



U.S. Department of Justice Executive

Office for Immigration Review *Office of*

the General Counsel

5107 Leesburg Pike, Suite 2150
Falls Church, Virginia 22041

January 28, 2019

Via U.S. Mail

Matthew Hoppock
MuckRock News
DEPT MR 64506
411A Highland Ave.
Somerville, MA 02144-2516

Re: FOIA 2019-09045

Mr. Hoppock:

This letter is in response to your Freedom of Information Act (FOIA) request to the Executive Office for Immigration Review (EOIR) dated November 29, 2018 in which you seek:

- Records related to the process of hiring Immigration Judge Vance Spath
- E-mail messages to/from any EOIR employee from January 1, 2015 and January 8, 2018 mentioning "Spath"

Responsive documents are enclosed. One document has been withheld in its entirety in accordance with 5 U.S.C. § 552(b)(5) to protect certain intra-agency communications protected by the deliberative process privilege. Consistent with our obligation to segregate exempt information from non-exempt information, we conducted a line-by-line review of the document withheld under the deliberative process privilege. We determined that exempt and non-exempt information is inextricably intertwined and reasonable segregation is not possible. *See Mead Data Cent., Inc. v. U.S. Dept. of the Air Force*, 566 F.2d 242 (D.C. Cir. 1977). In that regard, this document is withheld in its entirety.

Additionally, portions of other responsive documents have been redacted in accordance with 5 U.S.C. § 552(b)(5) to protect certain intra-agency communications protected by the deliberative process privilege.

Additionally, portions of the responsive documents have been redacted in accordance with 5 U.S.C. § 552(b)(6) to avoid a clearly unwarranted invasion of personal privacy.

Finally, portions of the responsive documents have been redacted in accordance with U.S.C. § 552(b)(7)(E), which concerns records or information compiled for law enforcement purposes the release of which would disclose techniques and procedures for law enforcement investigations or prosecutions. Exemption (b)(7)(E) extends protection of information related to agency technology systems. *See Levinthal v. FEC*, 219 F.Supp.3d 1, 9 (D.D.C. 2016).

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. *See* 5 U.S.C. § 552(c) (2006 & Supp. IV 2010). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist. *See* <http://www.justice.gov/oip/foiapost/2012foiapost9.html>.

You may contact our FOIA Public Liaison at the telephone number 703-605-1297 for any further assistance and to discuss any aspect of your request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

If you are not satisfied with my response to this request, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, Suite 11050, 1425 New York Avenue, NW, Washington, DC 20530-0001, or you may submit an appeal through OIP's FOIAonline portal by creating an account on the following web site <https://www.foiaonline.gov/foiaonline/action/public/home>. Your appeal must be postmarked or electronically transmitted within 90 days of the date of my response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal."

Sincerely,

Joseph Schaaf

J.R. Schaaf
Chief Counsel for Administrative Law

Enclosure:

EOIR FOIA# 2019-09045