



U.S. Department of Justice
Executive Office for Immigration Review
Office of the General Counsel

5107 Leesburg Pike
Falls Church, Virginia 22041

July 6, 2020

Via Email at 97631-87902230@requests.muckrock.com

Matthew Hoppock
MuckRock News
DEPT MR 97631
411A Highland Ave
Somerville, MA 02144-2516

RE: FOIA 2020-60004 Expedited Processing - Deny

Dear Mr. Hoppock:

The Executive Office for Immigration Review (EOIR) has received your request for expedited treatment of your Freedom of Information Act (FOIA) request.

The FOIA regulations states that expedited treatment is granted if there is an exceptional need such as jeopardy to life or personal safety, a threatened loss of substantial due process rights, or an urgency to inform the public concerning actual or alleged Federal Government activities. *See* 28 C.F.R. § 16.5(e).

Note that EOIR has no record of a similar requested submitted by you in 2018. Additionally, in your request for expedited processing, you reference “ICE trial attorneys”. Note that ICE employees are under the Department of Homeland Security, Immigration and Customs Enforcement, a different agency than that of the Department of Justice, Executive Office of Immigration Review. Upon review of your request, it has been determined that you did not meet the threshold. Therefore, your request for expedited treatment has been denied.

We have considered your request to be designated as a news media requester; however, we have determined that you did not meet the threshold. The standards for qualifying as a representative of a news media are outlined in 28 C.F.R. § 16.10(b)(6). With respect to being quoted by a news organization, the examples that you provided do not qualify you as a representative of the news media for purposes of this request. Specifically, merely posting agency records without using editorial skills to turn the raw materials into a distinct work, or other media organizations merely referencing these same postings, does not meet the standard. *Id.* In that regard, you have not “demonstrate[d] a solid basis for expecting publication through [any] entity.” 5 U.S.C. § 552(a)(4)(A); *see also* 28 C.F.R. § 16.10(b)(6).

We have determined that you are a non-media, non-commercial requester pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(III). As a non-media, non-commercial requester, you are entitled to two free hours of search time and up to one hundred pages of duplication without charge. *See* 28 C.F.R. § 16.10(d)(4) (2019).

If we anticipate fees being accrued to process your request, we will make a determination on your application for a public interest waiver or reduction of fees under 28 C.F.R. § 16.10(k)(1)-(k)(2)(i)-(iii) at that time. As a preliminary matter, however, please note that the Department of Justice is not governed by 6 C.F.R. § 5.11(k) cited in your request. The Department of Justice is governed by the fee waiver or reduction of fees outlined in 28 C.F.R. § 16.10(k)(1)-(k)(2)(i)-(iii).

Additionally, to the extent any records are located and subject to disclosure, with respect to your request that we itemize and justify each item of the information withheld, please be advised that the FOIA does not require us to provide such a listing at the administrative stage of processing your FOIA requests. *See Bangoura v. U.S. Dep't of the Army*, 607 F. Supp. 2d 134, 143 n.8 (D.D.C. 2009).

You may contact the 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 the agency's determination on your request expedited processing, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, 441 G Street, NW, 6th Floor, Washington, D.C. 20530, or you may submit an appeal through OIP's FOIA STAR portal by creating an account following the instructions on OIP's website: <https://www.justice.gov/oip/submit-and-track-request-or-appeal>. 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." 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,

SHELLEY O'HARA

Digitally signed by SHELLEY
O'HARA
Date: 2020.07.06 18:32:56 -04'00'

Shelley M. O'Hara
Attorney Advisor (FOIA)