



U.S. Department of Justice
Office of Information Policy
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Mr. Michael Best
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Re: Appeal Nos. DOJ-AP-2017-003718 &
DOJ-AP-2017-004140¹
Request No. 1342835-000
SRO:RCS

VIA: Email

Dear Mr. Best:

You appealed from the action of the Federal Bureau of Investigation on your Freedom of Information Act request for access to records concerning the Prosecutor's Management Information System (PROMIS).

After carefully considering your appeal, and as a result of discussions between FBI personnel and this Office, I am remanding your request to the FBI for further processing of the responsive records withheld pursuant to Exemption 7(A). Although the FBI invoked Exemption 7(A) of the FOIA, 5 U.S.C. § 552(b)(7)(A), at the time your initial request was processed, that exemption is no longer applicable to withhold certain records in full. Consequently, the FBI will process and send all releasable records to you directly, subject to any applicable fees. You may appeal any future adverse determination made by the FBI. If you would like to inquire about the status of this remand, please contact the FBI directly. I am otherwise affirming, on partly modified grounds, the FBI's action on your request.

The FOIA provides for disclosure of many agency records. At the same time, Congress included in the FOIA nine exemptions from disclosure that provide protection for important interests such as personal privacy, privileged communications, and certain law enforcement activities. A portion of the information responsive to your request is classified. I am affirming the FBI's withholding of this information pursuant to 5 U.S.C. § 552(b)(1), which protects classified information from disclosure. Additionally, I am referring this information to the Department of Justice's Department Review Committee (DRC) so that it may determine if this information should remain classified under Executive Order No. 13,526. You will be informed

¹ By letter dated May 17, 2017, this Office informed you that your additional appeal from your FOIA request for the above-referenced records had been received by this Office and would be assigned for adjudication under Appeal No. DOJ-AP-2017-004140. However, this Office subsequently learned that your appeal file was a further appeal of Request No. 1342835-000. This appeal response adjudicates both of your appeal letters appealing Request No. 1342835-000.

if any information is declassified. This referral does not affect your right to pursue litigation. The FBI also properly withheld certain information because it is protected from disclosure under the FOIA pursuant to:

5 U.S.C. § 552(b)(3), which concerns matters specifically exempted from release by statute (in this instance, 50 U.S.C. § 3024(i)(1), which pertains to the National Security Act of 1947 and the Central Intelligence Agency Act of 1949; and Rule 6(e) of the Federal Rules of Criminal Procedure, which pertains to the secrecy of grand jury proceedings);

5 U.S.C. § 552(b)(6), which concerns material the release of which would constitute a clearly unwarranted invasion of the personal privacy of third parties;

5 U.S.C. § 552(b)(7)(C), which concerns records or information compiled for law enforcement purposes the release of which could reasonably be expected to constitute an unwarranted invasion of the personal privacy of third parties;

5 U.S.C. § 552(b)(7)(D), which concerns records or information compiled for law enforcement purposes the release of which could reasonably be expected to disclose the identities of confidential sources and information furnished by such sources; and

5 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.

Please be advised that for each of these exemptions, it is reasonably foreseeable that disclosure of the information withheld would harm the interests protected by these exemptions.

Regarding your appeal of the adequacy of the FBI's search for records responsive to your request, please be advised that the FBI had not yet completed its search for records when it sent its response dated March 30, 2017. In light of these circumstances, it would be premature for this Office to adjudicate the adequacy of the FBI's search at this stage.


Please be advised that this Office's decision was made only after a full review of this matter. Your appeal was assigned to an attorney with this Office who thoroughly reviewed and analyzed your appeal, your underlying request, and the action of the FBI in response to your request. If you have any questions regarding the action this Office has taken on your appeal, you may contact this Office's FOIA Public Liaison for your appeal. Specifically, you may speak with the undersigned agency official by calling (202) 514-3642.

If you are dissatisfied with my action on your appeal, the FOIA permits you to file a lawsuit in federal district court in accordance with 5 U.S.C. § 552(a)(4)(B).

For your information, the Office of Government Information Services (OGIS) offers 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. 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; email at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Sincerely,

8/23/2017

X 

Sean R. O'Neill
Chief, Administrative Appeals Staff
Signed by: OIP