



U.S. Department of Justice
Office of Information Policy
Sixth Floor
441 G Street, NW
Washington, DC 20530-0001

Telephone: (202) 514-3642

October 4, 2022

William Fernandes
MuckRock News
DEPT MR 131269
263 Huntington Avenue
Boston, MA 02115
131269-31580594@requests.muckrock.com

Re: FOIA-2022-01842
DRH:ERH

Dear William Fernandes:

This responds to your Freedom of Information Act request dated and received in this Office on September 1, 2022, seeking records concerning administrative appeal DOJ-AP-2017-003713.

A search has been conducted in this Office, and sixteen pages have been located that contain records responsive to your request. I have determined that four pages are appropriate for release without withholdings, and copies are enclosed. Please be advised that we have considered the foreseeable harm standard when reviewing records and applying FOIA exemptions.

Because the remaining twelve pages are of primary interest to the Federal Bureau of Investigation (FBI), we have referred it to the FBI for further processing and direct response to you. Contact Information for the FBI can be found on www.foia.gov.

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) (2018). 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.

You may contact our FOIA Public Liaison, Valeree Villanueva, for any further assistance and to discuss any aspect of your request at: Office of Information Policy, United States Department of Justice, Sixth Floor, 441 G Street, NW, Washington, DC 20530-0001; telephone at 202-514-3642.

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, MD 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 this Office's determination in response to this request, you may administratively appeal by writing to the Director, Office of Information Policy, United States Department of Justice, Sixth Floor, 441 G Street, NW, Washington, DC 20530-0001, 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 submitted within ninety 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,

A handwritten signature in blue ink, appearing to read "Douglas R. Hibbard", with a small "DR" monogram at the end.

Douglas R. Hibbard
Chief, Initial Request Staff

FOIA APPEAL

Notice
FBI

(RCS)

RECEIVED
APR 21 2017

Office of Information Policy

Director, Office of Information Policy
U.S. Department of Justice, Suite 11050
1425 New York Ave., NW
Washington, D.C. 20530-001

April 7, 2017

I am appealing the decision to reject my request. As I explained in the original request, "161 files, like all FBI files, are numbered chronologically based on the order they are opened, the process to find files opened in 1986 is simple and straightforward, and therefore well within the bounds of a "reasonable search" even if the search interface doesn't allow this process to be instantly automated."

On March 29, 2017:

The request has been rejected by the agency.

On March 17, 2017:

To Whom It May Concern:

I wanted to follow up on the following Freedom of Information request, copied below, and originally submitted on Feb. 15, 2017. Please let me know when I can expect to receive a response, or if further clarification is needed.

Thanks for your help, and let me know if further clarification is needed.

On Feb. 15, 2017:

Dear Mr. Best,

The FBI has received your Freedom of Information Act/Privacy (FOIPA) request and it will be forwarded to Initial Processing for review. Your request will be processed under the provisions of FOIPA and a response will be mailed to you at a later date.

Requests for fee waivers and expedited processing will be addressed once your request has been assigned an FOIPA request number. You will receive written notification of the FBI's decision.

Please be advised, beginning Wednesday, March 1, 2017, you will no longer be able to submit FOIPA requests via email. On this date, FOIPARquest@ic.fbi.gov<mailto:FOIPARquest@ic.fbi.gov> will permanently be taken

offline and requests will need to be submitted using the FBI's electronic FOIPA portal at <https://efoia.fbi.gov>. Alternatively, you may submit your request using fax or standard mail.

Information regarding the Freedom of Information Act/Privacy is available at <http://www.fbi.gov> or <http://www.fbi.gov/foia>. If you require additional assistance please contact the Public Information Officer.

Thank you,

Leanna Ramsey
Public Information Officer
Record/Information Dissemination Section (RIDS) FBI-Records Management Division
170 Marcel Drive, Winchester, VA 22602-4843
Direct: (540) 868-4593
Fax: (540) 868-4391/4997
Questions E-mail: foipaquestions@ic.fbi.gov

PLEASE REPLY DIRECTLY TO FOIPAREQUEST@IC.FBI.GOV

Do you have further questions about the FOI/PA process? Visit us at <http://www.fbi.gov/foia>

Please check the status of your request online at <https://vault.fbi.gov/fdps-1/@@search-fdps>. Status updates are performed on a weekly basis.

On Feb. 15, 2017:
To Whom It May Concern:

This is a request under the Freedom of Information Act. I hereby request the following records:

The initiating and terminating documents for all 161 files (Special Inquiries for White House, Congressional Committees and Other Government Agencies) opened or closed in 2001. In addition to this, I request the first 10 other releasable pages and the last 10 other releasable pages from each file and the first and last instance releasable instances of communications from the White House, Congressional Committees or Other Government Agencies as appropriate. As 161 files, like all FBI files, are numbered chronologically based on the order they are opened, the process to find files opened in 2001 is simple and straightforward, and therefore well within the bounds of a "reasonable search" even if the search interface doesn't allow this process to be instantly automated.

I am a member of the news media and request classification as such. I have previously written about the government and its activities for AND Magazine, MuckRock and Glomar Disclosure and have an open arrangement with each. My articles have been widely read, with some reaching over 100,000 readers. As such, as I have a reasonable expectation of publication and my editorial and writing skills are well established. In addition, I discuss and comment on the files online and make them available through the non-profit Internet Archive, disseminating them to a large audience. While my research is not limited to this, a great deal of it, including this, focuses on the activities and attitudes of the government itself. As such, it is not necessary for me to demonstrate the relevance of this particular subject in advance. Additionally, case law states that "proof of the ability to disseminate the released

information to a broad cross-section of the public is not required." *Judicial Watch, Inc. v. Dep't of Justice*, 365 F.3d 1108, 1126 (D.C. Cir. 2004); see *Carney v. U.S. Dep't of Justice*, 19 F.3d 807, 814-15 (2d Cir. 1994). Further, courts have held that "qualified because it also had "firm" plans to "publish a number of . . . 'document sets'" concerning United States foreign and national security policy." Under this criteria, as well, I qualify as a member of the news media. Additionally, courts have held that the news media status "focuses on the nature of the requester, not its request. The provision requires that the request be "made by" a representative of the news media. *Id.* § 552(a)(4)(A)(ii)(II). A newspaper reporter, for example, is a representative of the news media regardless of how much interest there is in the story for which he or she is requesting information." As such, the details of the request itself are moot for the purposes of determining the appropriate fee category. As such, my primary purpose is to inform about government activities by reporting on it and making the raw data available and I therefore request that fees be waived. Per DOJ FOIA guidance, "a requester should be granted a fee waiver if the requested information (1) sheds light on the activities and operations of the government; (2) is likely to contribute significantly to public understanding of those operations and activities; and (3) is not primarily in the commercial interest of the requester." As this FOIA meets all of those requirements (see above), a fee waiver is warranted.

The requested documents will be made available to the general public, and this request is not being made for commercial purposes.

In the event that there are fees, I would be grateful if you would inform me of the total charges in advance of fulfilling my request. I would prefer the request filled electronically, by e-mail attachment if available or CD-ROM if not.

Thank you in advance for your anticipated cooperation in this matter. I look forward to receiving your response to this request within 20 business days, as the statute requires.

Sincerely,

Michael Best

Filed via MuckRock.com

E-mail (Preferred): 33396-32098462@requests.muckrock.com

For mailed responses, please address (see note):

MuckRock

DEPT MR 33396

411A Highland Ave

Somerville, MA 02144-2516

PLEASE NOTE: This request is not filed by a MuckRock staff member, but is being sent through MuckRock by the above in order to better track, share, and manage public records requests. Also note that improperly addressed (i.e., with the requester's name rather than "MuckRock News" and the department number) requests might be returned as undeliverable.

1425 New York Avenue N.W.
Suite 11050
Washington, DC 20005

Michael Best
MuckRock
DEPT MR 33396
411-A Highland Avenue
Somerville, MA 02144-2516

April 25, 2017

Dear Mr. Best,

This is to advise you that your administrative appeal from the action of the Federal Bureau of Investigation regarding Request No. NFP-68860 was received by this Office on 04/21/2017.

The Office of Information Policy has the responsibility of adjudicating such appeals. In an attempt to afford each appellant equal and impartial treatment, we have adopted a general practice of assigning appeals in the approximate order of receipt. Your appeal has been assigned number DOJ-AP-2017-003713. Please mention this number in any future correspondence to this Office regarding this matter. Please note that if you provide an e-mail address or another electronic means of communication with your request or appeal, this Office may respond to your appeal electronically even if you submitted your appeal to this Office via regular U.S. Mail.

We will notify you of the decision on your appeal as soon as we can. If you have any questions about the status of your appeal, you may contact me at (202) 514-3642. If you have submitted your appeal through FOIAonline, you may also obtain an update on the status of your appeal by logging into your account.

Sincerely,

Priscilla Jones
Supervisory Administrative Specialist