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Federal Bureau of Investigation

Washington, D.C. 20535

September 1, 2009

Subject: RIDS FOIPA PROCESS BOARD MINUTES (JANUARY 2007 TO PRESENT)

FOIPA No. 1133330- 000

The enclosed documents were reviewed under the Freedom of Information/Privacy Acts (FOIPA), Title 5, United States Code, Section 552/552a. Deletions have been made to protect information which is exempt from disclosure, with the appropriate exemptions noted on the page next to the excision. In addition, a deleted page information sheet was inserted in the file to indicate where pages were withheld entirely. The exemptions used to withhold information are marked below and explained on the enclosed Form OPCA-16a:

Section 552

Section 552a

- Exemption selection checkboxes for Section 552 (b)(1) through (b)(6) and Section 552a (d)(5) through (k)(7). (b)(2) and (b)(6) are checked.

10 pages were reviewed and 10 pages are being released.

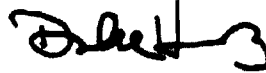
- Document(s) were located which originated with, or contained information concerning other Government agency(ies) [OGA]. This information has been: referred to the OGA for review and direct response to you; referred to the OGA for consultation. The FBI will correspond with you regarding this information when the consultation is finished.

You have the right to appeal any denials in this release. Appeals should be directed in writing to the Director, Office of Information Policy, U.S. Department of Justice, 1425 New York Ave., NW, Suite 11050, Washington, D.C. 20530-0001. Your appeal must be received by OIP within sixty (60) days from the date of this letter in order to be considered timely. The envelope and the letter should be clearly marked "Freedom of Information Appeal." Please cite the FOIPA Request Number assigned to your request so that it may be easily identified.

The enclosed material is from the main investigative file(s) in which the subject(s) of your request was the focus of the investigation. Our search located additional references, in files relating to other individuals, or matters, which may or may not be about your subject(s). Our experience has shown, when ident, references usually contain information similar to the information processed in the main file(s). Because of our significant backlog, we have given priority to processing only the main investigative file(s). If you want the references, you must submit a separate request for them in writing, and they will be reviewed at a later date, as time and resources permit.

See additional information which follows.

Sincerely yours,

A handwritten signature in black ink, appearing to read "D. Hardy", with a stylized flourish at the end.

David M. Hardy
Section Chief
Record/Information
Dissemination Section
Records Management Division

Enclosure(s)

Enclosed are excised copies of RIDS FOIPA Process Board Minutes within the time frame you specified.

EXPLANATION OF EXEMPTIONS

SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552

- (b)(1) (A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified to such Executive order;
- (b)(2) related solely to the internal personnel rules and practices of an agency;
- (b)(3) specifically exempted from disclosure by statute (other than section 552b of this title), provided that such statute(A) requires that the matters be withheld from the public in such a manner as to leave no discretion on issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;
- (b)(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;
- (b)(5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;
- (b)(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;
- (b)(7) records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information (A) could be reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could be reasonably expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or (F) could reasonably be expected to endanger the life or physical safety of any individual;
- (b)(8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or
- (b)(9) geological and geophysical information and data, including maps, concerning wells.

SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552a

- (d)(5) information compiled in reasonable anticipation of a civil action proceeding;
- (j)(2) material reporting investigative efforts pertaining to the enforcement of criminal law including efforts to prevent, control, or reduce crime or apprehend criminals;
- (k)(1) information which is currently and properly classified pursuant to an Executive order in the interest of the national defense or foreign policy, for example, information involving intelligence sources or methods;
- (k)(2) investigatory material compiled for law enforcement purposes, other than criminal, which did not result in loss of a right, benefit or privilege under Federal programs, or which would identify a source who furnished information pursuant to a promise that his/her identity would be held in confidence;
- (k)(3) material maintained in connection with providing protective services to the President of the United States or any other individual pursuant to the authority of Title 18, United States Code, Section 3056;
- (k)(4) required by statute to be maintained and used solely as statistical records;
- (k)(5) investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment or for access to classified information, the disclosure of which would reveal the identity of the person who furnished information pursuant to a promise that his/her identity would be held in confidence;
- (k)(6) testing or examination material used to determine individual qualifications for appointment or promotion in Federal Government service the release of which would compromise the testing or examination process;
- (k)(7) material used to determine potential for promotion in the armed services, the disclosure of which would reveal the identity of the person who furnished the material pursuant to a promise that his/her identity would be held in confidence.

Attendees: Mr. Hardy, [redacted]
[redacted]

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Mr. Hardy went over the history and purpose of the meeting. The purpose is to discuss problems with requests that have been "handed off" between the units and FDPS issues as to the flow of the work.

Mr. Hardy mentioned that it is almost time for the **Vice President Nomination** project to begin. The process will be set up and only certain people will be handling this material. Once it begins, it will need to be handled quickly.

Negotiations: The Unit Chiefs and [redacted] are handling the negotiations in the queue.

The WPU's indicated that all large queue requests are being sent to this queue.

There are now 84 large queue requests in the entire system.

Mr. Hardy asked the Unit Chiefs for the number of requests they are working on.

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The FOIPA Negotiate Queue Report dated 2/28/08 indicates that:

[redacted] has 5 requests assigned to him.

[redacted] has 3 requests assigned to her.

[redacted] has 1 request assigned to him.

There are 6 requests not yet assigned to a UC for negotiation.

Requests for LCN files will be sent to the Negotiation queue. [redacted] will get in touch with the LCN Unit for direction on whether or not the requester should be called for negotiation purposes.

Handling requests from prisoners who are indigent and their request will require duplication fees: Should three sections of documents be scanned/100 free pages processed and then address the rest of the file or negotiate before the request is made date ready or Recommendations should be sent to [redacted]

[redacted] will be publishing the negotiation procedures.

Negotiation queue leadership: [redacted] will be retiring this spring. RIDS

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Management will be looking at one senior person and maybe a couple of junior employees to carry on the negotiation process. Recommendations should be sent to [redacted]

Contract requests: These requests will go to the Negotiation queue as well.

LCN files: Processed files regarding LCN matters should be forwarded to the LCN Unit for review. They should be looking for information we plan to release that could jeopardize what they are working on. They are not doing another FOIPA processing review. Be professional with our interactions with them, we are just glad they are willing to do a review.

WPU's do not have any issues with the receipt of requests, the process is working fine. Future tracking of the "special" requests will certainly be beneficial.

WPUs send [redacted] a letter every 90 days regarding fees due.
They maintain fee coordinators for numerous requesters.
There were 61 exclusions in 2007 and only 20 in the previous two years.
WPUs are looking for a new contact for CTD and 9/11.

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CTD has an Executive Secretariat that should be able to assist.
There were no suggestions for a new contact for 9/11.

Reading Room CDs: The WPUs will have one employee sort them each week so specific
CD's can be easily located. BOSU will be contacted for possible assistance.
Incoming letters with government agency letterhead: All referrals should be backlogged.
SRU will determine if the referral is perfected or not.

WPU employees should be made aware of and watch for RD/FRD information.

WPUs last two classes need to be trained on this information.

There is an unclassified "green" book and a video that may assist.

Classification Units will check with the Department of Energy for any new
materials that might be useful in the training.

SRU will report monthly regarding appeals not yet scanned. The WPUs try to finish up
their open appeals the last week of the month. It was noted that sometimes the
closing letter comes in before the appeal was scanned into FDPS.

WPU searching databases.

Many databases, to include the I drive and the DNA database at Quantico are
searched.

For DNA database checks, a form is filled out and sent to Quantico. Most
reports are filed by Lab #. The information can't always be retrieved by a
name and date of birth. Special language is used for the I drive.

A list of the databases searched by the WPUs was provided to UC/TCs.

WPU will try harder to scope the files before the documents are imported into the file.

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WPU [redacted] should be advised when there is a quality control issue with the
documents scanned in. DocLab has the ability to "straighten" a page that was
scanned at an angle. WPU will contact DocLab about this.

Incoming referrals should be matched with the corresponding open FOIPA requests. It
was noted by WPU that there are times when it is not possible to make the match.

If it is determined at a later date that the referral should be matched with an
open request, the referral can be closed and the documents scanned into the open
request.

When checks or money orders are sent in before the request is processed and duplication
fees charged, they should be returned to the requester. If the check/money order
was forwarded for deposit, please advise the WPUs and provide the FOIPA
number. There have been a few times where the funds have been received and
scanned into the folder but the RTS tab was not used to record receipt of the funds.

Again, advise WPUs as both are excellent training opportunities.

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Advise WPUs when [redacted] Liaison referral responses or other materials have not been
scanned after a few days. The LAS requesting the scanning should be sure to
attach a scanning sheet.

MIOG/MAOG requests: The preprocessed material is very old. WPU indicated that if the
request is for small portions, the material is reprocessed. If the requester is a prisoner,
the preprocessed material is released as it is now. SRU will tackle this and see that they

are on the Website.

HiVis materials are to be tagged for the Website and how are we to advise [redacted] ?
This subject will be addressed at a future meeting regarding "special" requests.

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[redacted] **Liaison:** [redacted] will no longer be the [redacted] Liaison. The material can be FEDEXed directly to [redacted] by using a 0-4 form to the following address

b2

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Remember to double wrap all classified material.

Material classified Top Secret, Confidential/SCI, Secret/SCI, or TS/SCI or higher must be taken to HQ Room 5334 for control documents. FEDEX does not handle highly sensitive material. [redacted]

b2

The highly classified material cannot be FEDEXed to HQ. Other arrangements will need to be made.

FDPS will be modified so it can track time for decisions on fee waivers and expeditions. When the LAS enters the information, FDPS will note the date it happens.

SRU would like to have uncounted reopens and DRC appeals in a different color so they can be easily spotted in FDPS

The **Classification Units** are talking with the FDPS representatives regarding automating the mandatory reviews.

The [redacted] Liaison representative is here three days a week at the most, so there may be some delay in getting that material back.

The [redacted] Liaison will continue to work with us for a while yet. Once CU3 moves to Winchester the point of contact will be [redacted] who is currently assigned to the Litigation Support Unit.

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Classification Unit One will begin reviewing FOIPA work March 1, 2008.

FOIPA Units/SV

Incoming correspondence and other materials are scanned into the FDPS folder daily.

The LASs should check their request folders each day to check for new materials that have been scanned. They could be: a status inquiry [redacted] Liaison response, incoming referral that corresponds with your request or funds for duplication fees.

b2

-3-

When outgoing referrals are sent by the FOIPA/SV Units, the referral letter and the documents being referred should be scanned on the administrative side of the FDPS folder. Once the referrals are ready for mailing, a copy of the material should be given to UC [redacted]. Be sure to attach the scanning cover sheet. The scanning of this material greatly assists the Litigation Support Unit.

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The FOIPA/SV Units should closely check their letters before sending work items to the print queue.

When materials are returned from one Unit to another because there is a problem or it will be discussed in a future meeting, be sure to bring the FOIPA number and a good description of the problem. These situations can often be used for training purposes and the FOIPA number does prove helpful.

An FDPS representative will be present at the next quarterly meeting.

Attendees: Mr. Hardy, [REDACTED]

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"Stop notice" function in FDPS

- Put in stop when requester does not pay and add to list of non payers - date the notice
- When they pay, the stop notice should be deleted
- Important to read/add and delete the stop notices

Notifying others of payment or non payment of duplication fees

- WPU should email FOIPA Units when payment is received on open request
- When request is being closed for non payment - all units should be advised CU so they can return to FOIPA all work items they have WPU and other FOIPA so other requests from same requester can be closed
- Email each other

When files are not ident or not enough information to ident

- Close no record but advise WPU of FOIPA number

PA - Cited PA - FOIA

- Notify WPU when there is confusion on which is correct and provide the FOIPA number

Multiple work items

- When there is more than one section/reference in a request, break down into multiple work items. CU does not have the scissor icon to separate later.

Quick Kills will stay as they are

OPCA 07 letter

- In fifth block of letter, "HQ search" will be removed

Mandatory Declassification Reviews (MDRs)

- Process explained in Executive Order
- Can be made by private citizen or a Presidential Library
- Given a FOIPA number, assigned to FOIPA Unit and sent to CU right away
- When returned it is processed for all FOIPA exemptions
- Private citizens are responsible for payment of fees
- Training for CUs will be scheduled with [REDACTED]

b6

Classification Review

- Classification review is not necessary if already reviewed pursuant to current E.O.
- Classification reviews should continue until advised that requester failed to pay fees
- Do not wait until fees are paid to begin review of material tagged for next interim

"Drif" forms

- CU should fill out when file is being reviewed for classification.
- Send to the ARC for filing in the original file. Details to be worked out.

190 files - General Rule

- Don't call 190 file if just want to see how file was processed before

- There may be an exception for a particular high vis request

Uncounted reopens

- Committee to be set up to discuss this issue (SRU/FOIPA/CU)
- What is a remand and an uncounted reopen
- How should we handle
- Do we get credit for pages

Appeals

- Requesters can appeal "**adequacy of search**" responses
OIP will advise the requester to go to HQ or specific field office if have not already made request there or will look for cross references
- Requesters can appeal "**no record**" responses
Given appeal number and will affirm if nothing found with new search
If find something, will close appeal and reopen request with an extension
- Requesters can appeal "**records sent/destroyed**" responses
Advise the requester when FBI records were sent to St. Louis/NARA or were destroyed
Give the appeal pitch in letter as has the right to appeal the adequacy of the search
OGC confirms they have the right to appeal

A ticket will be put in to change the appeal paragraph on the letters where the change has not already been made.

When sending work items to the Classification Units, we can use the Classification Review Request form. It assists the Classification Unit in tracking the requests.

Verify in each request that the new search has been done. If it appears that the new search was not done, advise the appropriate WPU Unit Chief. There should be notes in the FDPS folder.

Referrals, especially incoming Department of Defense referrals, will be sent to Doc Lab for scanning and then importing into FDPS. This will ensure that the document is OCR'd and retrievable with the OCR search.

NARA approved FDPS system in 2003.

The [redacted] document processing system is a newer version of hi view and is compatible to ours. There are several advantages to their system:

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Move anything from anywhere to anywhere else by click and drag.

It will not repopulate everytime you move something

Creates a working copy that can be sent to the classification unit for review while at the same time, the disclosure unit can be processing for FOIPA exemptions. When it is completed, hit the Merge icon and it will bring the classification version together with the Disclosure version to be one again.

Disclosure will not have to wait for Classification to finish before they start. There are a lot of management tools.

Audio/Video media

The audio/video equipment in the East Wing is an unclassified system.

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[redacted] is checking into getting a classified system

The video system will handle VHS video, CDs and DVDS. The audio side does reel to reels and cassette tapes.

If there is an issue or problem with the media, we were instructed to release the paper documents and advise the requester of the existence of the media. The requester may not want or need the media.

b6

[redacted] will provide the WPU's the written instructions on how to make duplicate copies of the media. Hands on training may also be necessary. The WPU's can then make a duplicate of the media in the file. The original will be returned to the file and the duplicate stored with [redacted] until the request is assigned. Notes should be placed in FDPS.

There will be times when media is discussed in the file; however, there is no media provided by WPU. WPU should be contacted at that time. They will then get in touch with the field office.

If the media has a chain of custody form and/or is stored in the evidence room, it is considered to be evidence. It is not to be processed in response to a FOIPA request. If the media has been made a part of the file, then it is to be processed.

If the media was found in the criminal's house or car, it is considered evidence and is outside FOIPA. If the media was created by the FBI, it should be processed. The decisions involving media will be made on a case by case basis.

June FOIPA Processing Board minutes

Sentinel Search vs UNI search

- [redacted] will prepare a test search demo to show Sentinel capabilities vs UNI search
- If Sentinel proves to be a better option, we will go to Sentinel searches, advise OGC regarding change for declarations

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New FOIA statute

- Waiting on new implementation instructions from Dept of Justice

Negotiation

- Determine what is responsive and note on negotiation report scanned into request.
- Files should be scanned on Section level
- Ensure employees are aware of and reads Negotiation reports
- Negotiations should mark whether classified
- Scoping vs Negotiation

Fee Waiver Coordinators

- Call to limit date frame

Backlog Manager

- [redacted] replacement will be backlog manager. For now [redacted] and [redacted] will handle

b6

Uncounted Reopens

- Tabled for now, will set up meeting with Units and BOSU to discuss

File Scanning

- Ensure (per Division policy for T drive) that files are scanned by section for references.
- Files are being scanned at the field level, once a FO has been completed we will ignore to FO rules and handle as we do HQ files.
- Tampa has been completed, coordinate with DOJ attorneys for appeals

On the Horizon

Directorate of Intelligence has given permission to limit classification, in 100 file series only, for files dated 1959 and earlier to Human Intelligence sources only. Stamps have been ordered and ticket placed for FDPS changes. FOIA will handle classification in these instances, eliminating forwarding to CU for review

1. SV related an experience where a requester was sent a cost letter which noted the number of pages possibly responsive to the request and when the SV FOIPA LAS reviewed the file it was apparent that the file should have been considered for an exclusion.

Lesson learned. When dealing with possible sensitive file classifications, such as a 315, to be cognizant that it is a sensitive file and may require more than just a cursory look before sending any correspondence and to watch out for spin-off investigations that could be affected by either an acknowledgment or a release.

2. Handling of referrals. It was emphasized that in responding to a **referral from another OGA** to make sure the investigation is closed and to use the correct outgoing letter which in most situations is the HD-5 and not the OPCA-16. If the OGA has cited exemptions for redactions on the referred pages be sure to give them credit by using the text feature in FDPS. An example would be "Per IRS" near the locality of their exemption on the page.

Outgoing referrals have been problematic for LSU. Outgoing referrals need to state specifically what is being referred to the OGA. Identify by using the serial, file section and the FDPS page number from the redacted version of the file. When possible/feasible have the documents being referred scanned on the administrative side of the electronic case folder behind a complete copy s of the OPCA-6. Pages sent to OGA for Information Only purposes should not be included as a page being referred. Please use the text feature to mark these pages clearly as For Information Only.

Do not forget to date all outgoing mail. If the outgoing mail is not sent for whatever reason it should be deleted from FDPS. If the request is closed please place a note in FDPS advising that the outgoing correspondence was not sent. We don't look very smart if a document is included in a paper trail for litigation that was never sent.

3. More guidance should be coming from the AG on the President's Memorandum dated January 21, 2009. Until then use the articulable harm standard; release if you can.

4. Team captains and reviewers need to get on-board with the spot check program.

5. The 100 File Classification Process was mentioned. FOIPA LAS should review requests before sending a file to Classification for review to make sure the file needs to go to Classification and that it is responsive to the request. The 100 File Classification Process has not yet been finalized. It is still under discussion.