



Office of Inspector General
Legal Services Corporation

Inspector General
Jeffrey E. Schanz

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October 30, 2013

Rekha Sharma-Crawford, Esq.
Michael Sharma-Crawford, Esq.
Genevra Alberti, Esq.
The Clinic
515 Avenida Cesar E. Chavez
Kansas City, MO 64108

Re: OIG Freedom of Information Act Request 13-10

Dear Mr. Sharma-Crawford and Mses. Sharma-Crawford and Alberti:

On October 21, 2013, my office received your letter appealing the Legal Services Corporation (LSC) Office of Inspector General's (OIG) original decision to withhold information you had requested pursuant to the Freedom of Information Act (FOIA). I reviewed the file reflecting the OIG's original decision and inquired into the OIG's actions in response to your FOIA request. In deciding this appeal, my staff reviewed the records you are seeking and made inquiries concerning the pendency of enforcement proceedings in which those records may be implicated. After carefully considering your appeal, I have decided to affirm the OIG's original action on your request.

Specifically, you requested "records relating to the investigation, commencing on or about March 21, 2012 and ongoing until completion, of Legal Aid of Western Missouri, and the conduct of LawMO attorney [REDACTED] in conjunction with [REDACTED] practice of law in violation of LSC regulations." The OIG decided to withhold the records sought pursuant to Exemption 7(A) of the FOIA, 5 U.S.C. § 552(b)(7)(A), which protects "law enforcement records and information" that "could reasonably be expected to interfere with enforcement proceedings."

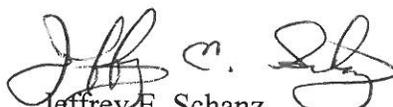
I have confirmed that enforcement proceedings are ongoing or reasonably expected to be undertaken in connection with the records identified in your request. In addition, I have confirmed that release of the records you are seeking at this time could reasonably be expected to interfere with those proceedings. Accordingly, I have determined that the decision not to release the records described in your request was appropriate and consistent with Exemption 7(A).

I would note that much of the authority you cite in your appeal letter concerns what an agency must do to adequately defend its decision to withhold documents should a dispute under the FOIA reach the district court level. It does not address the administrative stage of the FOIA process. Indeed, it is settled law that “[t]here is no requirement that administrative responses to FOIA requests contain the same documentation necessary in litigation.” *Crooker v. CIA*, No. 83-1426, 1984 U.S. Dist, LEXIS 23177 at *3-4 (D.D.C. Sept. 28, 1984); see *Schwartz v. Dept. of Treasury*, 131 F. Supp. 2d 142, 147 (D.D.C. 2000). For example, agencies cannot be required to provide detailed indexes commonly referred to as Vaughn indexes before a FOIA dispute reaches the courts. See, e.g., *Sakamoto v. EPA*, 443 F. Supp. 2d 1182, 1189 (N.D. Cal. 2006). Rather, when an agency denies a FOIA request, it is only required to state the grounds of the denial, inform the requester of the right to appeal, and identify the persons responsible for the denial. 5 U.S.C. § 552(a)(6)(A)(i), (a)(6)(C)(i). My review of the file concerning your request confirms that the initial decision satisfied these requirements. Put simply, the detail you appear to be seeking is not required of an administrative FOIA response. Rest assured, however, that the OIG takes its responsibilities under the FOIA seriously, has diligently processed your request, and, in my judgment, has asserted a valid, defensible basis for declining to disclose the records you sought.

Review of records in connection with your appeal, has revealed that in addition to the basis for nondisclosure identified in the OIG’s initial FOIA decision, the material sought is exempted from disclosure by 5 U.S.C. § 552(b)(7)(C). Exemption 7(C) protects “law enforcement records and information” that “could reasonably be expected to constitute an unwarranted invasion of privacy.” This exemption has been interpreted to protect the privacy interest of individuals mentioned in investigative reports, regardless of whether or not those individuals are themselves the targets of the law-enforcement investigations at issue. See *SafeCard Servs. v. S.E.C.*, 926 F.2d 1197, 1205 (D.C. Cir, 1991). Without a written waiver from the individual or individuals mentioned in the records you seek or proof that they are no longer living, the OIG will not release the records or affected portions thereof even after the conclusion of the enforcement proceedings mentioned above. Nor can the OIG provide an estimate of the “volume of ... requested matter,” 5 U.S.C. § 552(a)(6)(F), without invading privacy interests protected by Exemption 7(C). Based on my review, the OIG will withhold the information you seek pursuant to both Exemption 7(A) and Exemption 7(C).

If you are dissatisfied with my action on this appeal, you may seek judicial review in accordance with 5 U.S.C. § 552(a)(4).

Sincerely,


Jeffrey E. Schanz
Inspector General