



U.S. Department of Justice
Office of Information Policy
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Washington, DC 20530-0001

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David Schulz
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February 16, 2021
Re: Appeal No. A-2021-01016
Request No. 1482931
MWH:JKD

VIA: Email

Dear David Schulz:

This is to advise you that your administrative appeal from the action of Federal Bureau of Investigation was received in this Office on February 9, 2021. You appealed on behalf of Raymond Bonner, from the FBI's denial of your request for expedited treatment of your Freedom of Information Act request. You also requested expedited treatment of your appeal.

In your appeal letter, you assert that your request is entitled to expedited treatment pursuant to the second standard enumerated in the Department of Justice's regulations. Under the second standard, you must show that there is "[a]n urgency to inform the public about an actual or alleged Federal Government activity, if made by a person primarily engaged in disseminating information." 5 U.S.C. § 552(a)(6)(E)(v)(II). See also 28 C.F.R. § 16.5(e)(1)(ii) (2020).

After carefully considering your appeal, I am affirming the FBI's action in denying your request for expedited treatment. In deciding whether you have demonstrated that there is an "urgency to inform the public" under 28 C.F.R. § 16.5(e)(1)(ii) (2020), I considered three factors: "(1) whether the request concerns a matter of current exigency to the American public; (2) whether the consequences of delaying a response would compromise a significant recognized interest; and (3) whether the request concerns federal government activity." Al-Fayed v. CIA, 254 F.3d 300, 310 (D.C. Cir. 2001). Although your request concerns a federal government activity, you have not established or provided any facts demonstrating that the requested records are a matter of current exigency to the American public, nor articulated a significant recognized interest that would be compromised if a response to your client's request was delayed. Without such a showing, expedited processing pursuant to the second standard is not warranted.

I note that you requested expedited treatment of your appeal. Because I am closing your underlying appeal within ten calendar days, your request for expedited treatment of this appeal

is moot.

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 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. 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.

Sincerely,



X

Matthew Hurd
Acting Chief, Administrative Appeals Staff