

**Exhibit A**



**SOCIAL SECURITY**  
Office of Hearings Operations

**MEMORANDUM**

**Date:** January 9, 2020

**To:** Henry Koltys  
Administrative Law Judge

**From:** Odell Grooms */s/ Odell Grooms*  
Hearing Office Chief Administrative Law Judge

**Subject:** Investigatory Meeting

I would like to meet with you on January 9, 2020 at 4pm, to investigate issues related to you bringing a firearm onto federal property on January 7, 2020. The video will be set up for the interview in Hearing Room 1. I will call the VTC number: 510-555-1460.

This is an official investigation, which may result in disciplinary action against you. The purpose of this meeting is to give you an opportunity to provide me with information relating to the issues raised.

You are entitled to have a union representative present at this meeting.

I would appreciate your cooperation in this matter. If you have any questions, please contact me.

**Exhibit B**

March 18, 2020

Social Security Administration  
Office of General Counsel  
Office of Privacy and Disclosure  
6401 Security Boulevard  
West High Rise, Room G-401  
Baltimore, MD 21235

Re: Freedom of Information Act Request – Henry Koltys

Dear Sir/Madam:

This letter is written pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. §552. FOIA requires federal agencies to make requested records promptly available to any person as long as the request reasonably describes the records and complies with the agency's published rules. *See* 5 U.S.C. § 552(a)(3)(A). A request reasonably describes the records sought "if it enables a professional agency employee familiar with the subject area to locate the record with 'a reasonable amount of effort.'" FREEDOM OF INFORMATION AND PRIVACY ACT OVERVIEW, Office of Information and Privacy, U.S. Department of Justice, page 20 (1995); see DOD FREEDOM OF INFORMATION ACT HANDBOOK, page 3.

In accordance with this statute, we hereby make this request for any and all documents relating to the agency's investigation(s) and/or inquiries related to allegations against Agency ALJ Henry Koltys from January 1, 2020 to the present. More specifically, this request seeks the following information:

Please provide copies of all documents relating to any and all investigations or inquiries convened and/or conducted by personnel in the Santa Barbara Hearing Office, personnel in the Region 9 regional office, or by the Agency's Workplace and Domestic Violence Program Office, in Baltimore MD, including but not limited to, any and all records, notes of interviews, transcripts, statements, recommendations, reports, findings, conclusions and all other documents relating to the investigation described above concerning ALJ Henry Koltys.

Please also provide copies of any and all correspondence, including email, IM messages, text messages, memoranda or any other written or recorded medium, sent among the Office of the Chief ALJ, Region 9 personnel, personnel within the Santa Barbara Hearing Office and/or with the Baltimore Headquarters that discuss or refer to allegations that ALJ Koltys possessed a firearm in the hearing office on or about January 8, 2020.

Please also provide copies of any and all correspondence, communications, emails or writings among the Office of the Chief ALJ, Region 9 Regional Chief ALJ, other personnel in region 9, personnel within the Santa Barbara Hearing Office, personnel with the Office of Hearing Operations and/or the Baltimore Headquarters that discuss or refer to ALJ Henry Koltys's return to the hearing office on March 16, 2020, and/or the directive that he submit to additional security screening upon his return.

Please also provide copies of any and all of the records, documents and materials described below:

- 1) copies of any all records, reports evaluations, assessments or other written materials prepared by Dr. Mark Brezinger, or Mark Rudick and/or others within DCBFM regarding ALJ Henry Koltys that are in the possession of personnel within the Santa Barbara Hearing Office, Region 9 regional office in San Francisco, Falls Church OHO Headquarters Office, the Agency's Workplace and Domestic Violence Program Office, or the Office of General Counsel in Baltimore, MD;
- 2) copies of any and all records, reports, evaluations, assessments, or other written materials prepared by personnel within the Office of Facilities and Logistics Management; and
- 3) copies of any and all records, reports, evaluations, assessments, or other written materials prepared by personnel within the Office of Security and Emergency Preparedness and/or the Agency's Workplace and Domestic Violence Program Office, DCBFM, Office of General Counsel, Regional Counsel or other SSA offices conducted during a workplace violence evaluation, review or assessment of him in Baltimore, MD or elsewhere.

FOIA sets out the required records an agency must make available for public inspection and copying. *See* 5 U.S.C. § 552(a)(2)(A)-(E). These records include final opinions and orders made in the adjudication of cases; statements of policy and interpretations adopted by the agency; administrative staff manuals and instructions to staff that affect the public; and copies and a general index (unless the copies are offered for sale) of all records that have been released to another requesting party and that the agency determines are or are likely to become a subject of subsequent requests. *Id.*

Upon receipt of the request for records, the agency has 20 days to decide whether to comply with the request. *See* 5 U.S.C. § 552(a)(6)(A)(i). Once the agency makes its determination, it must immediately notify the requester of its decision and the reasons for it. *Id.*

If the agency fails to provide the requested documents that are neither exempted nor excluded under § 552(b) or § 552(c), the requester is deemed to have exhausted his administrative remedies with respect to his request and may file a complaint with the United States District Court. *See* 5 U.S.C. § 552(a)(4)(B), (6)(C)(i). The District Court has jurisdiction to enjoin the agency from withholding records and to order the agency to produce such records improperly withheld. *Id.* The statute places the burden on the agency to sustain its failure to provide the requester with the records. *Id.* If the requesting party prevails, the court may assess against the agency any attorney fees and costs that were reasonably incurred. *See* 5 U.S.C. § 552(a)(4)(C).

Wherefore, I hereby formally request the documents described above. Please be advised that I am willing to pay **reasonable** fees for fulfilling this request. In order to assist you determine my status for the purpose of assessing fees, please be advised that I am an individual seeking information for **personal use about myself** and not for commercial purposes. Thank you for your attention to this matter.

Sincerely,



Henry Koltys  
P.O. Box 50544  
Montecito, CA 93150





## SOCIAL SECURITY

Refer to:

S9H: SSA-2020-002047

July 7, 2020

Mr. Henry Koltys  
P.O. Box 50544  
Montecito, CA 93150  
[Henry.Koltys@ssa.gov](mailto:Henry.Koltys@ssa.gov)

Dear Mr. Koltys:

This letter is to notify you of the fees associated with your March 18, 2020 Privacy Act and Freedom of Information Act (FOIA) requests.

Under the Privacy Act, you requested copies of, or access to, any and all records about you and the allegation that you brought a firearm into a hearing office on or about January 8, 2020 that are maintained in any of the Social Security Administration's (SSA) non-exempt systems of records. In addition, you requested copies of, or access to, any and all records regarding you that are stored or maintained in the following exempt systems:

- Records concerning you stored or maintained in SSA's Complaint Files and Log (SSA/Office of the General Counsel (OGC));
- Records concerning you stored or maintained in SSA's Anti-Harassment & Hostile Work Environment Case Tracking and Records System;
- Records concerning you stored or maintained in the SSA Violence Evaluation and Reporting System; and
- Any other records involving any investigation of you, including but not limited to, the evaluation, review, or assessment of you, others, and the Santa Barbara Office of Hearings Operations (OHO), which Dr. Mark Brenzinger and Brian Rudick or others within the office of the Deputy Commissioner of Budget, Finance, and Management (DCBFM), OGC, Regional Counsel, or other SSA offices that conducted a workplace violence evaluation, review, or assessment of you.

Under the FOIA, you requested any and all documents relating to the agency's investigation(s) and/or inquiries related to allegations agency you from January 1, 2020 to the present. More specifically, you requested the following:

- copies of all documents related to any and all investigations or inquiries convened and/or conducted by personnel in the Santa Barbara Hearing Office, personnel in the Region 9 regional office, or by the agency's Workplace and Domestic Violence Program Office in Baltimore MD, including but not limited to, any and

Page 2 – Mr. Henry Koltys

all records, notes of interviews, transcripts, statements, recommendations, reports, findings, conclusions, and all other documents relating to the investigation described above concerning yourself.

- copies of any and all correspondence, including email, instant messages, text messages, memoranda, or any other written or recorded medium, sent among the Office of the Chief Administrative Law Judge (ALJ), Region 9 personnel, personnel within the Santa Barbara Hearing Office and/or with the Baltimore Headquarters that discuss or refer to allegations that you possessed a firearm in the hearing office on or about January 8, 2020.
- copies of any and all correspondence, communications, emails, or writings among the Office of the Chief ALJ, Region 9 Regional Chief ALJ, other personnel in Region 9, personnel within the Santa Barbara Hearing Office, personnel with OHO and/or the Baltimore Headquarters that discuss or refer to your return to the hearing office on March 16, 2020, and/or the directive that you submit to additional security screening upon your return.
- copies of any and all records, documents, and materials described below:
  1. copies of any and all records, report evaluations, assessments or other written materials prepared by Dr. Mark Brenzinger or Mark Rudick and/or others within DCBFM regarding you that are in the possession of personnel within the Santa Barbara Hearing Office, Region 9 regional office in San Francisco, Falls Church OHO Headquarters, the agency's Workplace and Domestic Violence Program Office, or OGC in Baltimore, MD;
  2. copies of any and all records, reports, evaluations, assessments, or other written materials prepared by personnel within the Office of Facilities and Logistics Management; and
  3. copies of any and all records, reports, evaluations, assessments, or other written material prepared by personnel within the Office of Security and Emergency Preparedness (OSEP) and/or the agency's Workplace and Domestic Violence Program Office, DCBFM, OGC, Regional Counsel or other SSA offices conducted during a workplace violence evaluation, review, or assessment of you in Baltimore, MD or elsewhere.

On June 9, 2020, our office sent you an email asking you to provide a list of the SSA employees and the timeframe applicable to your request for "any and all correspondence" noted above. On June 15, 2020, you responded to our email request and stated that the relevant time for the requested information is January 8, 2020 to the present. The list of employees to search include the following:

- Stacy Rice (Santa Barbara HOD)
- Andres Chung (Santa Barbara Group Supervisor)
- ALJ Mary Everstine (Santa Barbara Acting Hearing Office Chief ALJ)
- ALJ Jennifer Horne (Region 9 Regional Chief ALJ)
- Patrick Nagle (Chief ALJ)



Page 3 – Mr. Henry Koltys

- Christopher Dillon (Deputy Chief ALJ)
- Royce B. Min (General Counsel)
- Teresa Gruber (Asst. Deputy Commissioner)
- David Black (Deputy Commissioner)
- Brian Rudick (Emergency Mgmt. Specialist — DCBFM/OSEP/Office of Emergency Management (OEM))
- Natalya Kashtelyan (Program Analyst — DCBFM/OSEP/OEM)
- Chip Mitchell (Mgmt. Analyst Office of Central Operations/Office of Earnings and International Operations/Division of Training and Program Support)
- Mary Ann Zimmerman (Deputy Exec. Dir. – OGC/Office of Privacy and Disclosure)

We are charging you fees for your request under section 1106 of the Social Security Act (Act) (42 U.S.C. § 1306(c)). Because we have invoked section 1106, the FOIA fee provisions in 5 U.S.C. § 552 are not applicable to your request. Section 1106 applies notwithstanding FOIA and the Privacy Act and provides that we charge the full cost for search and production of records when the request is for a purpose not directly related to the administration of a program under the Act. 20 C.F.R. §§ 402.165(j) and 402.175(a). We determined that your request is not directly related to the administration of the Act. Accordingly, we will charge you for the full cost to supply the requested information. 42 U.S.C. § 1306(c); 20 C.F.R. §§ 402.165 and 402.175.

When our employees search for records, we charge the following hourly rate depending on the grade of the employee:

- \$16.00 (GS-1 through GS-8)
- \$33.00 (GS-9 through GS-14)
- \$59.00 (GS-15 and above)

We estimate the cost to provide this information is \$3,245.00, which includes 2 hours of search at \$59.00, 59 hours of search and review time at \$33.00 per hour, and 20 hours of review time at \$59.00 per hour. If there is a duplication fee, we will bill you. In addition, according to our regulations at 20 C.F.R. § 402.175(e), we may charge a fee for search time even if we are unable to locate any responsive records or the records are exempt from disclosure.

If you want us to proceed with your request, **you must let us know**. You may also narrow the scope of your request or set a limit on the amount you are willing to spend. You may pay by check or money order made payable to SSA or by credit card (MasterCard, Visa, Discover, American Express, or Diner's Club). To pay by credit card, complete and sign the enclosed form. Be sure to include your credit card number and expiration date.

You may submit payment information by facsimile at 410-966-0869 or by mail to my attention at G-401 WHR, 6401 Security Boulevard, Baltimore, MD 21235. Please annotate the above reference number on your payment. **If we do not receive payment**

Page 4 – Mr. Henry Koltys

**within ten business days from the date of this letter, we will administratively close your request.** You will not receive a separate notification that we closed your request.

If you have questions, or would like further assistance with your request, you may contact our FOIA Public Liaison by email at [FOIA.Public.Liaison@ssa.gov](mailto:FOIA.Public.Liaison@ssa.gov); by phone at 410-965-1727, by choosing Option 2; or facsimile at 410-966-0869.

You may also contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration for dispute resolution services. OGIS is an entity outside of SSA that offers mediation services to resolve disputes between FOIA requesters and Federal agencies. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road – OGIS, College Park, MD 20740-6001; email at [ogis@nara.gov](mailto:ogis@nara.gov); telephone at 202-741-5770; toll-free at 1-877-684-6448; or facsimile at 202-741-5769.

If you disagree with this decision, you may file a written appeal with the Executive Director for the Office of Privacy and Disclosure, Social Security Administration, G-401 WHR, 6401 Security Boulevard, Baltimore, MD 21235 or electronically transmitted to [FOIA.Public.Liaison@ssa.gov](mailto:FOIA.Public.Liaison@ssa.gov). You have 90 days from the date of our administrative closure to appeal our decision. Please note that if we do not receive payment within 10 business days, we will administratively close your request without sending you a separate notice. Please mark the envelope or subject line with “Freedom of Information Appeal.”

Sincerely,



Mary Ann Zimmerman  
Freedom of Information Officer

Enclosure

**Exhibit D**

**From:** Koltys, Henry <Henry.Koltys@ssa.gov>

**Sent:** Monday, June 15, 2020 1:58 PM

**To:** ^FOIA Public Liaison <FOIA.Public.Liaison@ssa.gov>; Zimmerman, Mary Ann <Mary.Ann.Zimmerman@ssa.gov>; Mitchell, Chip <Chip.Mitchell@ssa.gov>; Min, Royce <Royce.Min@ssa.gov>

**Cc:** rfedder@averydooley.com; Cheri L. Cannon <ccannon@fedattorney.com>

**Subject:** RE: FOIA Request: SSA-2020-002047 - Request for Additional Information

This will serve to respond to the FOIA Public Liaison communications seeking a list of SSA employees and timeframe for FOIA Request SSA-2020-002047. The employees to search for responsive correspondence and/or documents includes:

Stacy Rice (Santa Barbara HOD)

Andres Chung (Santa Barbara Group Supervisor)

ALJ Mary Everstine (Santa Barbara Acting HOCALJ)

ALJ Jennifer Horne (Region 9 Regional Chief ALJ)  
Patrick Nagle (Chief ALJ)  
Christopher Dillon (Deputy Chief ALJ)  
Royce B. Min (General Counsel)  
Teresa Gruber (Asst. Deputy Commissioner)  
David Black (Deputy Commissioner)  
Brian Rudnick (Emergency Mgmt. Specialist — DCBFM/OSEP/OEM)  
Natalya Kashtelyan (Program Analyst — DCBF/OSEP/OEM)  
Chip Mitchell (Mgmt. Analyst OCO/OEIO/DTPS)  
Mary Ann Zimmerman (Deputy Exec. Dir. OPD)

The relevant time period for the requested information is from January 8, 2020 to the present and updated when new information is available.

Please let me know the reasons my request has not been processed in the statutory timeframe, and when I can expect the responsive materials. Thank you.

**From:** ^FOIA Public Liaison <[FOIA.Public.Liaison@ssa.gov](mailto:FOIA.Public.Liaison@ssa.gov)>

**Sent:** Tuesday, June 09, 2020 11:35 AM

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**To:** Koltys, Henry <[Henry.Koltys@ssa.gov](mailto:Henry.Koltys@ssa.gov)>

**Subject:** FOIA Request: SSA-2020-002047 - Request for Additional Information

Judge Koltys:

This email concerns your March 18, 2020 Freedom of Information Act (FOIA) request, SSA-2020-002047 (attached).

To proceed with the any and all correspondence portions of your request, please provide a list of the SSA employees and the timeframe (MM/DD/YYYY – MM/DD/YYYY) in which you would like to be searched.

We ask that you email the information to this email address - [FOIA.Public.Liaison@ssa.gov](mailto:FOIA.Public.Liaison@ssa.gov) – within **5 business days**. If we do not hear back within 5 business days, we may close the request.

Thank you.

Sincerely,

The FOIA Team

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**Exhibit E**



## SOCIAL SECURITY

Refer to:

S9H: SSA-2020-002047

July 7, 2020

Mr. Henry Koltys  
P.O. Box 50544  
Montecito, CA 93150  
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- Any other records involving any investigation of you, including but not limited to, the evaluation, review, or assessment of you, others, and the Santa Barbara Office of Hearings Operations (OHO), which Dr. Mark Brenzinger and Brian Rudick or others within the office of the Deputy Commissioner of Budget, Finance, and Management (DCBFM), OGC, Regional Counsel, or other SSA offices that conducted a workplace violence evaluation, review, or assessment of you.

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Page 2 – Mr. Henry Koltys

all records, notes of interviews, transcripts, statements, recommendations, reports, findings, conclusions, and all other documents relating to the investigation described above concerning yourself.

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  3. copies of any and all records, reports, evaluations, assessments, or other written material prepared by personnel within the Office of Security and Emergency Preparedness (OSEP) and/or the agency's Workplace and Domestic Violence Program Office, DCBFM, OGC, Regional Counsel or other SSA offices conducted during a workplace violence evaluation, review, or assessment of you in Baltimore, MD or elsewhere.

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Page 3 – Mr. Henry Koltys

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- Natalya Kashtelyan (Program Analyst — DCBFM/OSEP/OEM)
- Chip Mitchell (Mgmt. Analyst Office of Central Operations/Office of Earnings and International Operations/Division of Training and Program Support)
- Mary Ann Zimmerman (Deputy Exec. Dir. – OGC/Office of Privacy and Disclosure)

We are charging you fees for your request under section 1106 of the Social Security Act (Act) (42 U.S.C. § 1306(c)). Because we have invoked section 1106, the FOIA fee provisions in 5 U.S.C. § 552 are not applicable to your request. Section 1106 applies notwithstanding FOIA and the Privacy Act and provides that we charge the full cost for search and production of records when the request is for a purpose not directly related to the administration of a program under the Act. 20 C.F.R. §§ 402.165(j) and 402.175(a). We determined that your request is not directly related to the administration of the Act. Accordingly, we will charge you for the full cost to supply the requested information. 42 U.S.C. § 1306(c); 20 C.F.R. §§ 402.165 and 402.175.

When our employees search for records, we charge the following hourly rate depending on the grade of the employee:

- \$16.00 (GS-1 through GS-8)
- \$33.00 (GS-9 through GS-14)
- \$59.00 (GS-15 and above)

We estimate the cost to provide this information is \$3,245.00, which includes 2 hours of search at \$59.00, 59 hours of search and review time at \$33.00 per hour, and 20 hours of review time at \$59.00 per hour. If there is a duplication fee, we will bill you. In addition, according to our regulations at 20 C.F.R. § 402.175(e), we may charge a fee for search time even if we are unable to locate any responsive records or the records are exempt from disclosure.

If you want us to proceed with your request, **you must let us know**. You may also narrow the scope of your request or set a limit on the amount you are willing to spend. You may pay by check or money order made payable to SSA or by credit card (MasterCard, Visa, Discover, American Express, or Diner's Club). To pay by credit card, complete and sign the enclosed form. Be sure to include your credit card number and expiration date.

You may submit payment information by facsimile at 410-966-0869 or by mail to my attention at G-401 WHR, 6401 Security Boulevard, Baltimore, MD 21235. Please annotate the above reference number on your payment. **If we do not receive payment**

Page 4 – Mr. Henry Koltys

**within ten business days from the date of this letter, we will administratively close your request.** You will not receive a separate notification that we closed your request.

If you have questions, or would like further assistance with your request, you may contact our FOIA Public Liaison by email at [FOIA.Public.Liaison@ssa.gov](mailto:FOIA.Public.Liaison@ssa.gov); by phone at 410-965-1727, by choosing Option 2; or facsimile at 410-966-0869.

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If you disagree with this decision, you may file a written appeal with the Executive Director for the Office of Privacy and Disclosure, Social Security Administration, G-401 WHR, 6401 Security Boulevard, Baltimore, MD 21235 or electronically transmitted to [FOIA.Public.Liaison@ssa.gov](mailto:FOIA.Public.Liaison@ssa.gov). You have 90 days from the date of our administrative closure to appeal our decision. Please note that if we do not receive payment within 10 business days, we will administratively close your request without sending you a separate notice. Please mark the envelope or subject line with “Freedom of Information Appeal.”

Sincerely,



Mary Ann Zimmerman  
Freedom of Information Officer

Enclosure



**From:** Cheri L. Cannon  
**Sent:** Monday, July 20, 2020 4:41 PM  
**To:** FOIA.Public.Liaison@ssa.gov  
**Cc:** Peter J. Carley; Henry Koltys  
**Subject:** Henry Koltys FOIA Privacy Act request SSA 2020-00247  
**Attachments:** Koltys POA.pdf

**TimeMattersID:** MD7A0AC19DDB7951  
**TM Contact:** Mr. Henry Koltys  
**TM Contact No:** 69913  
**TM Matter No:** 19-0765  
**TM Matter Reference:** Koltys v. Social Security Administration

To whom it may concern:

This firm has been retained to respond to your letter of July 7, 2020 regarding your request for \$ 3245.00 in fees to respond to Judge Koltys' request for his own records and that of the Agency under both FOIA and the Privacy Act. A power of attorney is attached which authorizes me to send this email.

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To avoid costly fees, Judge Koltys is narrowing his request to two items at this time.

1. The psychological evaluation done by Dr. Brenzinger on behalf of the Workplace and Domestic Violence Program Office or any other requesting entity; and
2. Any report, evaluation or other documents compiled by that Committee or others working with the Committee to resolve the investigation into Judge Koltys that resulted in his return to the workplace, with certain security restrictions, and any orders or directives by the Committee to return Judge Koltys to work associated with that report.

Because we believe these are two discrete documents which may not be very lengthy and will be easily obtained from the responsible offices, we do not believe that there will be any fees. If there are, we agree to pay up to \$ 50.00 for these documents. Please let us know if the amount exceeds \$ 50.00.

Please acknowledge receipt of this email. We look forward to hearing from you soon.

Cheri

Cheri L. Cannon  
PARTNER  
[ccannon@fedattorney.com](mailto:ccannon@fedattorney.com)

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**Tully Rinckey PLLC**

2001 L Street NW Suite 902 | Washington, DC 20036

+1 (202) 787-1900 Phone | +1 (202) 375-2255 Direct | +1 (202) 640-2059 Fax

[www.fedattorney.com](http://www.fedattorney.com)

**NOT ADMITTED TO THE DISTRICT OF COLUMBIA BAR. DC PRACTICE LIMITED TO PROVIDING LEGAL SERVICES TO MEMBERS OF THE PUBLIC SOLELY BEFORE A SPECIAL COURT, DEPARTMENT, OR AGENCY OF THE UNITED STATES. Admitted to practice in Maryland.**

Confidentiality / Privilege Notice: This transmission, including attachments, is intended solely for the use of the designated recipient(s). This transmission may contain information that is confidential and/or privileged or otherwise protected from disclosure. The use or disclosure of the information contained in this transmission for any purpose other than that intended by its transmittal is strictly prohibited. If you are not an intended recipient of this transmission, please immediately destroy all copies received and notify the sender.





## SOCIAL SECURITY

Refer to:  
S9H: SSA-2020-002047

September 25, 2020

Mr. Henry Koltys  
P.O. Box 50544  
Montecito, CA 93150  
[Henry.Koltys@ssa.gov](mailto:Henry.Koltys@ssa.gov)

Dear Mr. Koltys:

This letter serves as an updated fee notice. On July 20, 2020, you responded to the fee notice letter sent to you on July 7, 2020. In your response, you stated that you would like to narrow your request. Your revised request is now for:

1. The psychological evaluation done by Dr. Brenzinger on behalf of the Workplace and Domestic Violence Program Office or any other requesting entity; and
2. Any report, evaluation or other documents compiled by that committee or others working with the committee to resolve the investigation into Judge Koltys that resulted in his return to the workplace, with certain security restrictions, and any orders or directives by the committee to return Judge Koltys to work associated with that report.

As stated in our initial fee notice, we determined that your request is for non-program related purposes and therefore, the agency should charge the full costs it incurs when providing you this information. *See* 20 C.F.R. § 402.175. Section 1106 of the Social Security Act (Act) gives the agency the authority to charge full costs for responding to information requests that are for non-program related purposes, regardless of the fee provisions of FOIA. 42 U.S.C. § 1306(c). Because the agency is invoking its authority under section 1106 of the Act, your status as a FOIA requester is irrelevant and the agency will charge you full costs. *See* 20 C.F.R. § 402.175(c).

When our employees search for records, we charge the following hourly rate depending on the grade of the employee:

- \$16.00 (GS-1 through GS-8)
- \$33.00 (GS-9 through GS-14)
- \$59.00 (GS-15 and above)

We made an error in calculating your initial fee. We now estimate the cost to provide this information is \$6,048.00, which includes 135 hours of search and review time at \$33.00 per hour and 27 hours of review time at \$59.00 per hour. If there is a duplication fee, we will bill you. In addition, according to our regulations at 20 C.F.R. § 402.175(e), we may charge a fee for search time even if we are unable to locate any responsive records or the records are exempt from



Page 2 – Mr. Koltys

disclosure.

If you want us to proceed with your request, **you must let us know**. You may also narrow the scope of your request or set a limit on the amount you are willing to pay. You may pay by check or money order made payable to the Social Security Administration (SSA) or by credit card (MasterCard, Visa, Discover, American Express, or Diner's Club). To pay by credit card, complete and sign the enclosed form. Be sure to include your credit card number and expiration date.

You may submit payment information by facsimile at 410-966-0869 or by mail to my attention at G-401 WHR, 6401 Security Boulevard, Baltimore, MD 21235. Please annotate the above reference number on your payment. **If we do not receive payment within ten business days from the date of this letter, we will administratively close your request.** You will not receive a separate notification that we closed your request.

If you have questions, or would like further assistance with your request, you may contact our FOIA Public Liaison by email at [FOIA.Public.Liaison@ssa.gov](mailto:FOIA.Public.Liaison@ssa.gov); by phone at 410-965-1727, by choosing Option 2; or by facsimile at 410-966-0869.

You may also contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration for dispute resolution services. OGIS is an entity outside of SSA that offers mediation services to resolve disputes between FOIA requesters and Federal agencies. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road – OGIS, College Park, MD 20740-6001; email at [ogis@nara.gov](mailto:ogis@nara.gov); telephone at 202-741-5770; toll-free at 1-877-684-6448; or facsimile at 202-741-5769.

If you disagree with this decision, you may file a written appeal with the Executive Director for the Office of Privacy and Disclosure, Social Security Administration, G-401 WHR, 6401 Security Boulevard, Baltimore, MD 21235 or electronically transmitted to [FOIA.Public.Liaison@ssa.gov](mailto:FOIA.Public.Liaison@ssa.gov). You have 90 days from the date of our administrative closure to appeal our decision. Please note that if we do not receive payment within 10 business days, we will administratively close your request without sending you a separate notice. Please mark the envelope or subject line with "Freedom of Information Appeal."

Thank you for your request.

Sincerely,



Mary Ann Zimmerman  
Freedom of Information Officer

Enclosure

**Exhibit H**

# AVERY DOOLEY & NOONE, LLP

ATTORNEYS AT LAW SINCE 1921

3 Brighton Street  
Belmont, MA 02478  
www.averydooley.com

(617) 489-5300 *tel*  
(617) 489-0085 *fax*  
rfedder@averydooley.com

September 28, 2020

Transmitted via Email:

[FOIA.Public.Liaison@ssa.gov](mailto:FOIA.Public.Liaison@ssa.gov)

Mary Ann Zimmerman  
Freedom of Information Officer  
Social Security Administration

Re: ALJ Henry Koltys – FOIA request #SSA-2020-002047

Ms. Zimmerman:

Judge Koltys has referred to us your communication dated September 25, 2020 regarding his pending request under the Freedom of Information Act (FOIA). We have reviewed SSA's determination and have grave concerns that SSA has not fulfilled its obligations under FOIA. First, Judge Koltys is an employee of SSA seeking records related to him individually. Unquestionably, he constitutes a non-media, non-commercial requester under 5 U.S.C. §552(a)(4)(A)(ii)(III). As a result, SSA's assessment of commercial search and duplication rates is improper and inconsistent with the specific terms of FOIA.

Second, contrary to your September 25, 2020 communication, Judge Koltys's request is program related. The requested materials relate directly to circumstances where the Agency prohibited Judge Koltys from entering the hearing office, and later significantly restricted his movements after he returned to the hearing office. These described actions by the Agency impacted – and continue to impact – the Commissioner's administration of hearings under Section 1631 of the Social Security Act.

Third, the Agency has repeatedly failed to provide timely responses to Judge Koltys's FOIA requests. As a result, section 552(a)(4)(A)(viii)(I) prohibits the Agency from assessing Judge Koltys any search or duplication fees.

Finally, the narrowed scope of Judge Koltys's request seeks information readily retrievable from SSA's Regional Office. The events are neither distant in time, nor undefined. As a result, the Regional Office is capable of retrieving and duplicating the requested materials within the two (2) hours of non-fee search time mandated by section 552(a)(4)(A)(iv)(II) of FOIA. The request also falls within the costs exemption for the first 100 pages of duplicated files.

Please consider this information and confirm for us that the Agency will comply with FOIA and promptly provide the records set forth in Judge Koltys's request without assessing a fee. We look forward to your response.

Very truly yours,

AVERY DOOLEY & NOONE, LLP

/s/  
Robert J. Fedder

cc: ALJ Henry Koltys

**Exhibit I**

**From:** Koltys, Henry <Henry.Koltys@ssa.gov>  
**Sent:** Monday, October 26, 2020 4:09 PM  
**To:** Henry Koltys <hk@incap.com>  
**Subject:** FW: [EXTERNAL] FOIA Appeal SSA-2021-000156 Submitted

**From:** [admin@foiaonline.gov](mailto:admin@foiaonline.gov) <[admin@foiaonline.gov](mailto:admin@foiaonline.gov)>  
**Sent:** Tuesday, October 06, 2020 5:21 PM  
**To:** Koltys, Henry <[Henry.Koltys@ssa.gov](mailto:Henry.Koltys@ssa.gov)>  
**Subject:** [EXTERNAL] FOIA Appeal SSA-2021-000156 Submitted

This message is to notify you of a new appeal submission to the FOIAonline application. Appeal information is as follows:

- Appeal Tracking Number: SSA-2021-000156
- Request Tracking Number: SSA-2020-002047
- Requester Name: Henry Koltys
- Date Submitted: 10/06/2020
- Appeal Status: Submitted
- Description: ALJ Koltys' attorneys submitted this appeal, citing several items for appeal:
  1. appeal of the search and duplication fees;
  2. appeal of non-program determination;
  3. appeal of fees due to failure to respond timely to his FOIA request; and
  4. states that the narrowed scope of Koltys' request makes the information he requested readily retrievable.







## SOCIAL SECURITY

Refer to:

S9H: SSA-2021-000156

x/ref SSA-2020-002047

November 16, 2020

Robert J. Fedder, Esq.  
Avery Dooley & Noone, LLP  
3 Brighton Street  
Belmont, MA 02478  
[rfedder@averydooley.com](mailto:rfedder@averydooley.com)

Dear Mr. Fedder:

This letter is in response to your September 28, 2020 Freedom of Information Act (FOIA) appeal of the fee notice the Social Security Administration (SSA) sent to your client, Mr. Henry Koltys, concerning his FOIA request, SSA-2020-002047. You contend the following regarding the fee:

1. Judge Koltys is a non-media, non-commercial requester under 5 U.S.C. § 552(a)(4)(A)(ii)(III); therefore, the agency should not have charged Judge Koltys for commercial search and duplicate rates.
2. Judge Koltys' request is program related, since the materials requested concern the agency's decision to prohibit Judge Koltys from entering the hearing office; therefore, impacting the administration of hearings under Section 1631 of the Social Security Act.
3. The agency did not respond to Judge Koltys' FOIA requests timely; therefore, he should not be charged any fees (per section 552(a)(4)(A)(viii)(I)).
4. The records Judge Koltys' requested are "readily retrievable from SSA's Regional Office"; therefore, the region should be able to retrieve the materials within the 2 free hours of search time mandated by section 552(a)(4)(A)(iv)(II) of the FOIA.

Upon review of your appeal, I affirm Ms. Zimmerman's fee determination. As stated in our September 25, 2020 fee notice, we are charging your client fees for his request under Section 1106(c) of the Social Security Act (42 U.S.C. § 1306(c)). Because we have invoked Section 1106, the FOIA fee provisions in 5 U.S.C. § 552 are not applicable to your request. Section 1106 applies notwithstanding FOIA and provides that we charge full cost for search and reproduction of records when the request is for a purpose not directly related to the administration of a program under the Social Security Act (20 C.F.R. § 402.175(a)).

After carefully considering all of the facts, I agree with the decision to charge a fee associated with the processing of FOIA case number SSA-2020-002047. I have determined that this request is for non-program related purposes and therefore, the agency should charge the full costs it incurs when providing you this information. See 20 C.F.R. § 402.175.

We consider a request to be program related if the information must be disclosed under the Act (20 C.F.R. § 402.170(a)(1)). For example, we consider a request to be program related if the requester indicates the needed information will be used for a purpose which is directly related to

Page 2 – Robert J. Fedder, Esq.

the administration of a program under the Act (see 20 C.F.R. § 402.170(a)(2)). The major criteria we consider in deciding whether a proposed use is so related are as follows:

1. Is the information needed to pursue some benefit under the Act?
2. Is the information needed solely to verify the accuracy of information obtained in connection with a program administered under the Act?
3. Is the information needed in connection with an activity which has been authorized under the Act?
4. Is the information needed by an employer to carry out her or his taxpaying responsibilities under the Federal Insurance Contributions Act or section 218 of the Act?

We consider a request for information which does not meet or equal any of the above criteria to be non-program related (20 C.F.R. § 402.175(b)). Per Mr. Koltys' July 20, 2020 emailed correspondence, he narrowed his request to the following:

1. The psychological evaluation done by Dr. Brenzinger on behalf of the Workplace and Domestic Violence Program Officer or any other requesting entity; and
2. Any report, evaluation, or other documents compiled by that committee or others working with the committee to resolve the investigation into Judge Koltys that resulted in his return to the workplace, with certain security restrictions, and any orders or directives by the committee to return Judge Koltys to work associated with that report.

Your client's request is non-program related, as the information he requested will be used to pursue his own interests, not directly related to the administration of a program under the Act. Your appeal did not establish how the requested records are needed for purposes beyond Mr. Koltys' personal disputes. Mr. Koltys' FOIA request does not pass several of the abovementioned criteria; therefore, I affirm the fee notice.

Additionally, please know that while the requested information is maintained in the San Francisco regional office, the search for responsive records is estimated to take multiple hours by multiple employees.

### Next Steps

As stated in our September 25, 2020 fee notice, there is a fee of \$6,048.00 to process FOIA request, case number SSA-2020-002047. Mr. Koltys needs respond to that fee notice **within 10 business days from the date of this appeal response** or we will administratively close request, case number SSA-2020-002047.

This is the agency's final decision in this matter. You may contact our FOIA Public Liaison if you have questions regarding the final decision. Our FOIA Public Liaison is available by email at [FOIA.Public.Liaison@ssa.gov](mailto:FOIA.Public.Liaison@ssa.gov); by phone at 410-965-1727, by choosing Option 2; or facsimile at 410-966-0869.

If you still believe the decision is incorrect, you may seek review in a United States district court. You may also contact the Office of Government Information Services (OGIS) for mediation and dispute resolution services. OGIS is an entity outside of SSA. Using OGIS services does not affect your right to pursue litigation.

Page 3 – Robert J. Fedder, Esq.

You may contact OGIS in any of the following ways:

Office of Government Information Services  
National Archives and Records Administration  
8601 Adelphi Road – OGIS  
College Park, MD 20740-6001  
E-mail: [ogis@nara.gov](mailto:ogis@nara.gov)  
Telephone: 202-741-5770  
Fax: 202-741-5769  
Toll-Free: 1-877-684-6448

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew D. Ramsey". The signature is fluid and cursive, written over a light gray rectangular background.

Matthew D. Ramsey  
Executive Director  
Office of Privacy and Disclosure

cc:  
Henry Koltys

**Exhibit K**

-----Original Message-----

From: [webpublishing@hq.dhs.gov](mailto:webpublishing@hq.dhs.gov) [mailto:[webpublishing@hq.dhs.gov](mailto:webpublishing@hq.dhs.gov)] On Behalf Of WCM DHS

Sent: Tuesday, June 16, 2020 4:04 PM

To: Henry Koltys <[hk@incap.com](mailto:hk@incap.com)>

Subject: Form submission from: DHS FOIA / Privacy Act Request Submission Form

Submitted on Tuesday, June 16, 2020 - 19:03 Submitted by user: Anonymous Submitted values are:

Select the DHS component you wish to submit your request to: : National Protection & Programs Directorate

(NPPD)  
Title: Mr.  
First Name: HENRY  
Middle Initial:  
Last Name: KOLTYS  
Suffix: Esq.  
Email Address: [hk@incap.com](mailto:hk@incap.com)  
Country: United States  
Address 1: PO BOX 50544  
Address 2:  
City: MONTECITO  
State: California  
Zip Code: 93150  
Telephone Number: 4157101708  
Fax Number:

Are you requesting records on yourself? Yes If yes, you must check the perjury statement: I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

By initialing here you are providing your electronic signature.: HK Please describe the records you are seeking as clearly and precisely as possible:  
The Privacy Office

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Privacy Office, Mail Stop 0655  
Department of Homeland Security  
2707 Martin Luther King Jr., Ave., SE  
Washington, DC 20528-065

Re:Freedom of Information Act Request – Report of Firearm (1/8/20)

Dear Sir/Madam:

This letter will serve as a formal written request pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. §552. FOIA requires federal agencies to make requested records promptly available to any person as long as the request reasonably describes the records and complies with the agency's published rules. See 5 U.S.C. § 552(a)(3)(A). A request reasonably describes the records sought "if it enables a professional agency employee familiar with the subject area to locate the record with 'a reasonable amount of effort.'" FREEDOM OF INFORMATION AND PRIVACY ACT OVERVIEW, Office of Information and Privacy, U.S. Department of Justice, page 20 (1995); see DOD FREEDOM OF INFORMATION ACT HANDBOOK, page 3.

In accordance with this statute, I hereby make a request for any and all documents related to an allegation that Administrative Law Judge Henry Koltys had a firearm in the Social Security Administration's Santa Barbara Hearing Office on or about January 8, 2020. This request specifically seeks copies of any of the following documents and materials:

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1)Copies of all documents, reports, statements, photos, or other tangible materials collected or assebled by employees of Contractor Paragon Systems that relate to the allegation that ALJ Henry Koltys had a firearm in the Santa Barbara Hearing Office on January 8, 2020.

2)Copies of all investigative files, incident reports, employee complaints, witness summaries, or investigation findings and/or narratives prepared by an employee of Contractor Paragon Systems concerning the allegation ALJ Henry Koltys had a firearm in the Santa Barbara Hearing Office on January 8, 2020 that was submitted to Inspector Manueal Andrade and/or any employee of The Federal Protective Service and/or Department of Homeland Security.

3)Copies of any and all reports of investigation, conclusions, or findings prepared by employees of Contractor Paragon Systems that relate to the allegation that ALJ Henry Koltys had a firearm in the Santa Barbara Hearing Office on January 8, 2020.

4)Copies of all investigative files, incident reports, employee complaints, witness summaries, or investigation findings and/or narratives concerning the allegation ALJ Henry Koltys had a firearm in the Santa Barbara Hearing Office on January 8, 2020, which are in the possession of Inspector Manuel Andrade and/or any employee of The Federal Protective Service and/or Department of Homeland Security.

5)Copies of any and all reports of investigation, conclusions, or findings that relate to the allegation that ALJ Henry Koltys had a firearm in the Santa Barbara Hearing Office on January 8, 2020, which are in the possession

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of Inspector Manuel Andrade and/or any employee of The Federal Protective Service and/or Department of Homeland Security.

6)Copies of any and all threat assessments, threat evaluations, psychological or mental health reports that concern ALJ Henry Koltys, which are in the possession of Inspector Manuel Andrade and/or any employee of The Federal Protective Service and/or Department of Homeland Security.

FOIA sets out the required records an agency must make available for public inspection and copying. See 5 U.S.C. § 552(a)(2)(A)-(E). These records include final opinions and orders made in the adjudication of cases; statements of policy and interpretations adopted by the agency; administrative staff manuals and instructions to staff that affect the public; and copies and a general index (unless the copies are offered for sale) of all records that have been released to another requesting party and that the agency determines are or are likely to become a subject of subsequent requests. Id.

Upon receipt of the request for records, the agency has 20 days to decide whether to comply with the request. See 5 U.S.C. § 552(a)(6)(A)(i). Once the agency makes its determination, it must immediately notify the requester of its decision and the reasons for it. Id.

If the agency fails to provide the requested documents that are neither exempted nor excluded under § 552(b) or § 552(c), the requester is deemed to have exhausted his administrative remedies with respect to his request and may file a complaint with the United States District Court. See 5 U.S.C. § 552(a)(4)(B), (6)(C)(i). The District Court has jurisdiction to enjoin the agency from withholding records and to order the agency to produce such

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records improperly withheld. Id. The statute places the burden on the agency to sustain its failure to provide the requester with the records. Id.

If the requesting party prevails, the court may assess against the agency any attorney fees and costs that were reasonably incurred. See 5 U.S.C. § 552(a)(4)(C).

Fee category -- Please be advised that the present request is made by an individual seeking information for personal use about myself and not for commercial purposes. I fall within DHS's "All other requesters" fee category. Please contact me if the fees to complete my request will exceed \$500.00.

Perjury Statement and Release -- Under penalty of perjury, and pursuant to 28 U.S.C. §1746, Henry Koltys states upon his oath that the foregoing information is true and correct to the best of his ability. This statement constitute my express consent to release the requested records, even those that contain Personal Information about myself (Henry Koltys).

/s/  
Henry Koltys

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I am willing to pay fees for this request up to the amount of: \$: 500 Select from the list below: An individual seeking information for personal use and not for commercial use.

I request a waiver of all fees for this request.: I request a waiver of all fees for this request.

Please provide an explanation for your request for a fee waiver: I was entitled this information from SSA and my due process rights have been denied. because of this obstruction i been denied information that was supposed to be delivered months ago and will disprove the allegation made against me.

Please select and describe in detail if you believe your request warrants expeditious handling: An impairment of substantial due process rights of the requester exists.

Please provide information to support your selection: i have been denied my due process rights by SSA in the refusal to provide the investigatory file regarding the allegation against me.

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