

April 9, 2021

Monica Potter-Johnson  
Government Information Specialist  
Office of Justice Programs, Department of Justice  
Room 5400, 810 7th Street, N.W.  
Washington, DC 20531

To the public records officer:

This is a request for electronic public records under the Freedom of Information Act. Please provide:

1. all information submitted to BJS under the Mortality in Correctional Institutions program. This includes information contained in submissions of BJS Forms [CJ-9](#) and [CJ-10](#) and any other data elements states are required to provide under 34 USC 60105, from 2010 through the date on which my request is processed. If this information is stored in a tabular database format, please provide a copy to me in tabular, sortable form such as comma-separated values (CSV). If the information exists ONLY as a paper or PDF form submission, please provide PDF copies. To be clear, I am requesting data on the deaths of individual inmates, not the summaries of inmate deaths published on the BJS website.
2. a copy of any data dictionary, record layout or other documentation that describes elements contained in the electronic database requested above.

Because I am a journalist gathering these public records for a national news organization, I ask that any fees associated with retrieving the data be waived as the law requires. I look forward to your timely response as the law provides.

Sincerely,

Steve Suo  
Data Team editor  
USA TODAY



Office of Justice Programs

Office of the General Counsel

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Washington, D.C. 20531

April 13, 2021

**Via Email**

[SSuo@usatoday.com](mailto:SSuo@usatoday.com)

Steve Suo  
Data Team Editor  
USA Today

Re: OJP FOIA No. 21-FOIA-00156

Dear Mr. Suo:

This letter acknowledges and responds to your April 9, 2021, Freedom of Information Act/Privacy Act (FOIA/PA) request, which was received in the Office of Justice Programs (OJP), Office of the General Counsel, on the same date. A copy of your request is attached for your convenience.

Please be advised that a search has been conducted in OJP, and records, consisting of 236,568 pages, were located that are responsive to your request. After carefully reviewing the records, I have determined that 236,568 pages are exempt from disclosure pursuant to exemption (b)(3) of the Freedom of Information Act, 5 U.S.C. § 552 (2018). Exemption (b)(3) authorizes an agency to withhold information prohibited from disclosure by another statute. This provision concerns matters specifically exempted from release by statute (in this instance, 34 U.S.C. §10231, which pertains to research or statistical information collected by the Bureau of Justice Statistics and must remain confidential). This completes the processing of your request by OJP.

You may contact a member of our FOIA Staff at (202) 307-6235, via e-mail at [FOIAOJP@usdoj.gov](mailto:FOIAOJP@usdoj.gov), as well as, our FOIA Public Liaison, for any further assistance and to discuss any aspect of your request at:

US DOJ, Office of Justice Programs  
Office of the General Counsel  
810 7<sup>th</sup> Street, NW, Room 5400  
Washington, D.C. 20531  
Attn: FOIA

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, 8601 Adelphi Road-OGIS, College

Park, Maryland 20740-6001, e-mail 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.

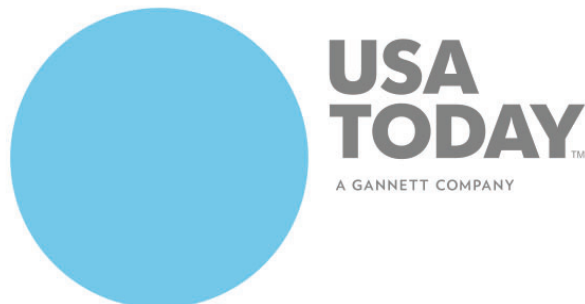
If you are not satisfied with OJP's determination in response to this request, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, 441 G Street, NW, 6th Floor, Washington, D.C. 20530, or you may submit an appeal through 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 transmitted within 90 calendar 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,

*Chaun Eason*

Chaun Eason  
Government Information Specialist

Attachment



April 14, 2021

Director, Office of Information Policy (OIP)  
United States Department of Justice  
441 G Street, NW, 6th Floor  
Washington, D.C. 20530,

To the director:

This is an appeal of a denial of my request for electronic public records under the Freedom of Information Act, OJP FOIA No. 21-FOIA-00156.

On April 9, 2021, I requested:

1. all information submitted to BJS under the Mortality in Correctional Institutions program. This includes information contained in submissions of BJS Forms [CJ-9](#) and [CJ-10](#) and any other data elements states are required to provide under 34 USC 60105, from 2010 through the date on which my request is processed. If this information is stored in a tabular database format, please provide a copy to me in tabular, sortable form such as comma-separated values (CSV). If the information exists ONLY as a paper or PDF form submission, please provide PDF copies. To be clear, I am requesting data on the deaths of individual inmates, not the summaries of inmate deaths published on the BJS website.
2. a copy of any data dictionary, record layout or other documentation that describes elements contained in the electronic database requested above.

On April 13, 2021, I received a letter from Chaun Eason, government information specialist, informing me that he had determined all responsive records were exempt from disclosure.

His denial letter cited FOIA exemption (b)(3), which exempts information prohibited from disclosure by another statute. The other statute he cited was [34 U.S.C. §10231](#), concerning “research or statistical information collected by the Bureau of Justice Statistics and must remain confidential.” This prohibition states: “No officer or employee of the Federal Government, and no recipient of assistance under the

provisions of this chapter shall use or reveal any research or statistical information furnished **under this chapter** by any person and identifiable to any specific private person for any purpose other than the purpose for which it was obtained in accordance with this chapter.” (Emphasis added.)

This language is contained in Title 34, Subtitle I, Chapter 101 (Justice System Improvement). However, I requested records collected under [34 USC §60105](#), which is part of Title 34, Subtitle IV, Chapter 601 (Prisons). This prohibition does not appear to apply to information furnished under the Prisons chapter, and therefore nothing appears to prevent disclosure of the records I requested under FOIA.

Separately, Mr. Eason’s denial did not address the second item in my request: a data dictionary, record layout or other documentation describing the contents of an DOJ database that houses submissions received under [34 USC §60105](#). No exemptions have been cited for this material and I renew my request.

Please let me know if I may provide any supplemental information for you to consider in reviewing this denial. I look forward to your response.

Sincerely,

Steve Suo  
Data Team editor  
USA TODAY



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

Exhibit 4

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Telephone: (202) 514-3642

April 17, 2021

ssuo@usatoday.com

Dear Steve Suo:

This is to advise you that the Office of Information Policy (OIP) of the U.S. Department of Justice received your administrative appeal from the action of the OJP regarding Request No. 21-FOIA-00156 on 04/16/2021.

In an attempt to afford each appellant equal and impartial treatment, OIP has adopted a general practice of assigning appeals in the approximate order of receipt. Your appeal has been assigned number A-2021-01557 . Please refer to this number in any future communication with OIP regarding this matter. Please note that if you provided an email 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 FOIA STAR, you may also check the status of your appeal by logging into your account.

Sincerely,

*Priscilla Jones*

Priscilla Jones  
Supervisory Administrative Specialist



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

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Telephone: (202) 514-3642

Steve Suo  
USA Today  
7950 Jones Branch Drive  
McLean, VA 22108

December 3, 2021

ssuo@usatoday.com

Re: Appeal No. A-2021-01557  
Request No. 21-FOIA-00156  
CDT:MGS

**VIA: Email**

Dear Steve Suo:

You appealed from the action of Office of Justice Program of the United States Department of Justice (OJP) on your Freedom of Information Act request for access to records concerning death in custody reports from 2010 through the date of your request, and a copy of any data dictionary pertaining to the records requested above. I note that your appeal concerns OJP's denial of your request pursuant to Exemption (b)(3).

As a result of discussions between OJP personnel and this Office, OJP conducted a further search for records pertaining to part two of your request and located records responsive to part two your request which pertain to data documentation for local jails for 2000-2017 and for state prisons for 2001-2017. Accordingly, I am releasing seventy-one pages in full to you, copies of which I have enclosed. I am otherwise affirming OJP's action on part one of your request.

The FOIA provides for disclosure of many agency records. At the same time, Congress included in the FOIA nine exemptions from disclosure that provide protection for important interests such as personal privacy, privileged communications, and certain law enforcement activities. As to subpart one of your request, OJP properly withheld this information in full because it is protected from disclosure under the FOIA pursuant to 5 U.S.C. § 552(b)(3). This provision concerns matters specifically exempted from release by a statute other than the FOIA (in this instance, 34 U.S.C. §10231, which pertains to the protection of research and statistical information collected by the Bureau of Justice Statistics).

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 OJP 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](mailto: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

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Matthew Hurd,  
Chief, Administrative Appeals Staff

Enclosures