



U.S. Department of Justice
Office of Information Policy
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Mary Kincaid
Suite 2400
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Knoxville, TN 37929
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January 19, 2022

Re: Appeal No. A-2021-01042
Request No. 29-00091-F
CDT:AMF

VIA: Email

Dear Mary Kincaid:

You appealed on behalf of your client, Ricardo Sanchez, from the action of the Drug Enforcement Administration (DEA) on your client's Freedom of Information Act request for access to certain records concerning your client and various third parties. I note that your appeal concerns DEA's refusal to confirm or deny the existence of records pertaining to certain named parties pursuant to Exemptions (b)(6) and (7)(C), the adequacy of DEA's search, and DEA's determination that portions of your client's request were not reasonably described.

After carefully considering your appeal, I am affirming, on partly modified grounds, DEA's action on your client's 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. To the extent that non-public responsive records exist, disclosure of such records, including law enforcement records, concerning a third-party individual would constitute a clearly unwarranted invasion of personal privacy, and could reasonably be expected to constitute an unwarranted invasion of personal privacy. See 5 U.S.C. § 552(b)(6), (7)(C). Further, it is reasonably foreseeable that releasing any non-public records, to the extent such records exist, would harm the interests protected by these exemptions. Because any non-public records responsive to your request would be categorically exempt from disclosure, DEA properly asserted these exemptions and was not required to conduct a search for the requested records. See, e.g., DOJ v. Reporters Committee for Freedom of the Press, 489 U.S. 749, 780 (1989) (holding "as a categorical matter" pursuant to Exemption 7(C) that release of investigatory records concerning a third party "can reasonably be expected to invade" that person's privacy and that such an invasion is unwarranted in the absence of an overriding public interest).

As to your appeal concerning the adequacy of DEA's search for responsive records subject to the FOIA, I have determined that DEA's response was correct and that it conducted

an adequate, reasonable search for such records.

As to the remainder of your appeal, please be advised that proper FOIA request for records must reasonably describe the records sought. See 5 U.S.C. § 552(a)(3)(A); see also 28 C.F.R. § 16.3(b)(2020). DEA informed you that your client's request for records related to a "green Chevrolet" and "someone from Matamoros" would require DEA to conduct an unreasonably burdensome search. I have determined that DEA's response was correct. Your client's request is not reasonably described because your client did not characterize the records sought in such a way that they could be located without conducting hundreds of hours of search of paper and electronic files. Courts have consistently held that the FOIA does not require agencies to conduct "unreasonably burdensome" searches for records. See, e.g., Nation Magazine v. U.S. Customs Serv., 71 F.3d 885, 892 (D.C. Cir. 1995).

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 client's underlying request, and the action of DEA in response to your client's request.

If your client is dissatisfied with my action on your appeal, the FOIA permits your client 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 client's 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,
Chief, Administrative Appeals Staff