

**EXHIBIT 4**



J.Dale Shoemaker <jdshoemaker@investigativepost.org>

**FOIA# 1585416/ Western Regional Off-track Betting Corporation**

20 messages

**FBI.FOIPA.NEGOTIATION@FBI.GOV** <FBI.FOIPA.NEGOTIATION@fbi.gov>

Thu, Jun 22, 2023 at 10:28 AM

To: "jdshoemaker@investigativepost.org" <jdshoemaker@investigativepost.org>

Good morning Mr. Shoemaker,

We're contacting you in reference to the FOIPA request number included in the subject line of this email. The FBI located approximately 2,664 pages potentially responsive to your request. In your request, you were willing to pay \$50.00 for processing.

Requests are processed in the order in which they are received through our multi-track processing system:

Small track requests (0-50 pages) current average time is approximately 4 months to complete;

Medium track requests (51-500 pages) current average time is approximately 35 months to complete;

Large track requests (501-4,999 pages) current average time is approximately 55 months to complete; and

Extra-large track requests (over 5,000 pages) current average time is approximately 77 months to complete.

The current average time to complete your large track request is at least 55 months. Reducing the scope of your request may accelerate the processing, allow for a timelier receipt of the information you seek, and reduce the duplication costs, if applicable. Would you be willing to consider reducing the scope of your request to place it in a smaller, potentially faster processing track?

Please let us know if this is something you would be interested in further discussing. If you chose to narrow the scope of your request, you will be able to request remaining material via a new FOIPA request submission at the completion of this request, subject to applicable fees.

Respectfully,

Negotiation Team

Federal Bureau of Investigation

[Fbi.foipa.negotiation@fbi.gov](mailto:Fbi.foipa.negotiation@fbi.gov)

Status Checks: <https://vault.fbi.gov/fdps-1/@@search-fdps> | [foipaquestions@fbi.gov](mailto:foipaquestions@fbi.gov)

For additional information, please visit the [www.fbi.gov/foia](http://www.fbi.gov/foia) website.



**J. Dale Shoemaker** <jdshoemaker@investigativepost.org>  
To: "FBI.FOIPA.NEGOTIATION@FBI.GOV" <FBI.FOIPA.NEGOTIATION@fbi.gov>

Thu, Jun 22, 2023 at 4:41 PM

Hi there,

Thank you so much for reaching out about this request. It's nice to hear from you.

As you might imagine, as a journalist, I would like to receive these records as soon as possible. So, let me ask a question:

Would it be possible to narrow my request into segments, and process them one at a time?

For example, I would like to receive records related to Mark Gabriele and Henry Wojtaszek first - is it possible to process those first? If so, what is the timeline?

If that is a feasible solution, I'd like the records processed and sent in the following order:

- Mark Gabriele and Henry Wojtaszek
- Richard Bianchi and Mark Onesi
- Western Regional Off-Track Betting and the
- Niagara County Industrial Development Agency
- Henry Sloma and Samuel Ferraro

Again, my goal here is to receive records sooner than later and I'm willing to be flexible to make that happen.

Please let me know your thoughts and what might be a feasible path forward.

Thank you,

Dale

[Quoted text hidden]

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**J. Dale Shoemaker**

Reporter

Cell/WhatsApp/Signal: 814-215-0509

Office: 716-831-2626 ext.5

Twitter: @JDale\_Shoemaker

**InvestigativePost**

487 Main St., #300, Buffalo, NY 14203

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**J. Dale Shoemaker**

Reporter

Cell/WhatsApp/Signal: 814-215-0509

Office: 716-831-2626 ext.5

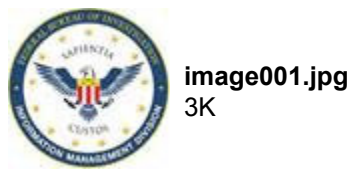
Twitter: @JDale\_Shoemaker

# InvestigativePost

487 Main St., #300, Buffalo, NY 14203

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**2 attachments**



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**FBI.FOIPA.NEGOTIATION@FBI.GOV** <FBI.FOIPA.NEGOTIATION@fbi.gov>

Thu, Jul 6, 2023 at 7:51 AM

To: "J.Dale Shoemaker" <jdshoemaker@investigativepost.org>

Cc: Karim Abdulla <kaa@foalegal.com>, Jim Heaney <jheaney@investigativepost.org>

Good morning Mr. Shoemaker,

Please advise if you are still interested in negotiating this case.

Thank you for your time.

Respectfully,

Negotiation Team  
Federal Bureau of Investigation  
[Fbi.foipa.negotiation@fbi.gov](mailto:Fbi.foipa.negotiation@fbi.gov)

Status Checks: <https://vault.fbi.gov/fdps-1/@@search-fdps> | [foipaquestions@fbi.gov](mailto:foipaquestions@fbi.gov)

For additional information, please visit the [www.fbi.gov/foia](http://www.fbi.gov/foia) website.



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**From:** J.Dale Shoemaker <[jdshoemaker@investigativepost.org](mailto:jdshoemaker@investigativepost.org)>  
**Sent:** Thursday, June 29, 2023 3:49 PM  
**To:** FBI.FOIPA.NEGOTIATION <[FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV)>  
**Cc:** Karim Abdulla <[kaa@foalegal.com](mailto:kaa@foalegal.com)>; Jim Heaney <[jheaney@investigativepost.org](mailto:jheaney@investigativepost.org)>  
**Subject:** Re: [EXTERNAL EMAIL] - Re: FOIA# 1585416/ Western Regional Off-track Betting Corporation

Hi there,

Thank you for letting me know about your policy to keep everything in writing. We'll communicate that way moving forward.

To that end, I and my editor, Jim Heaney, feel it's in our best interest to have our attorney, Karim Abdulla, communicate with your team on our behalf from here on. Both Mr. Heaney and Mr. Abdulla are copied on this email. Please let this email serve as me authorizing Mr. Abdulla to negotiate with you on behalf of me and Investigative Post with regard to this matter.

Mr. Abdulla will be following up in the near future to continue this discussion.

All the best,

Dale

On Wed, Jun 28, 2023 at 2:16 PM [FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV) <[FBI.FOIPA.NEGOTIATION@fbi.gov](mailto:FBI.FOIPA.NEGOTIATION@fbi.gov)> wrote:

Good afternoon Mr. Shoemaker,

We communicate by email to have receipt of conversations had. Please let us know if you have any further questions that we can clarify and if you are interested in negotiating this request via email.

Respectfully,

Negotiation Team

Federal Bureau of Investigation

[Fbi.foipa.negotiation@fbi.gov](mailto:Fbi.foipa.negotiation@fbi.gov)

Status Checks: <https://vault.fbi.gov/fdps-1/@@search-fdps> | [foipaquestions@fbi.gov](mailto:foipaquestions@fbi.gov)

For additional information, please visit the [www.fbi.gov/foia](http://www.fbi.gov/foia) website.



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**From:** J.Dale Shoemaker <[jdshoemaker@investigativepost.org](mailto:jdshoemaker@investigativepost.org)>  
**Sent:** Wednesday, June 28, 2023 11:19 AM  
**To:** FBI.FOIPA.NEGOTIATION <[FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV)>  
**Subject:** Re: [EXTERNAL EMAIL] - Re: FOIA# 1585416/ Western Regional Off-track Betting Corporation

Hi there,

Appreciate your response. It would be much easier for me and my fellow reporter to continue these discussions over the phone. Could you please provide a phone number that I could reach you at?

Thank you,

Dale

On Fri, Jun 23, 2023 at 2:13 PM [FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV) <[FBI.FOIPA.NEGOTIATION@fbi.gov](mailto:FBI.FOIPA.NEGOTIATION@fbi.gov)> wrote:

Good afternoon Mr. Shoemaker,

Thank you for the clarification email. A FOIA analyst has yet to review this material so we are limited in what we can say, though we can let you know the material falls between the years of 1982-2023. We can structure a request around a specific time-frame and move it to the track that would best suit you. You are only able to have one case open per subject. If you choose to negotiate this request down, then you are welcome to submit a new request for additional material upon the completion of the current negotiated request. You may submit your request electronically at <https://efoia.fbi.gov> (available 24 hours a day), fax it to 540-868-4997, or mail it to FBI, Attn: FOIPA Request, [200 Constitution Drive, Winchester, VA 22602-4843](https://www.fbi.gov/contact-us/locations/winchester). Please be sure to include your contact information, to include complete mailing address, on any correspondence.

Please advise how you would like to proceed.

Respectfully,

Negotiation Team

Federal Bureau of Investigation

[Fbi.foipa.negotiation@fbi.gov](mailto:Fbi.foipa.negotiation@fbi.gov)

Status Checks: <https://vault.fbi.gov/fdps-1/@@search-fdps> | [foipaquestions@fbi.gov](mailto:foipaquestions@fbi.gov)

For additional information, please visit the [www.fbi.gov/foia](http://www.fbi.gov/foia) website.



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**From:** J.Dale Shoemaker <[jdshoemaker@investigativepost.org](mailto:jdshoemaker@investigativepost.org)>

**Sent:** Friday, June 23, 2023 10:10 AM

**To:** FBI.FOIPA.NEGOTIATION <[FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV)>

**Subject:** Re: [EXTERNAL EMAIL] - Re: FOIA# 1585416/ Western Regional Off-track Betting Corporation

Hi there,

Please accept my sincere apologies! I sent my last email from a hotel with very poor Wifi and it appears things got lost in translation. Here's what I meant to reply:

In my original request, I asked for "all 302s, investigative files, memos, letters and reports related to or containing mention of" a handful of names and entities, including: George Maziarz, Mark Gabriele, Henry Wojtaszek, Richard Bianchi, Mark Onesi, Henry Sloma, Samuel Ferraro, Western Regional Off-Track Betting Corporation, Niagara County Industrial Development Agency (IDA) and Niagara County Center for Economic Development.

In your message to me yesterday, you asked about narrowing the scope of this request, based on the timelines you provided for processing.

This is a question I have: Would it be possible to segment my original request into smaller pieces, and receive records piecemeal as your agency completes processing?

If that is possible, I would like to segment the request in the following way:

- I would like all 302s, investigative files, memos, letters and reports related to or containing mention of Henry Wojtaszek and Mark Gabriele first.
- I would like all 302s, investigative files, memos, letters and reports related to or containing mention of Western Regional Off-Track Betting and the Niagara County Industrial Development Agency second.
- I would like all 302s, investigative files, memos, letters and reports related to or containing mention of Richard Bianchi and Mark Onesi third.
- And I would like all 302s, investigative files, memos, letters and reports related to or containing mention of Henry Sloma and Sam Ferraro last.

Could we segment and process my request in that way? If that is possible, could you provide an estimated number of pages and processing time for Segment #1?

Please let me know. I am at 814-215-0509 if it's easier to discuss this over the phone.

Thank you again,

Dale

On Fri, Jun 23, 2023 at 7:32 AM FBI.FOIPA.NEGOTIATION@FBI.GOV <FBI.FOIPA.NEGOTIATION@fbi.gov> wrote:

Good morning Mr. Shoemaker,

Thank you for your email and your potential willingness to negotiate. Can you please elaborate on the names listed in the email below?

[Quoted text hidden]

[Quoted text hidden]

[Quoted text hidden]



[REDACTED]

--

**J. Dale Shoemaker**

Reporter

Cell/WhatsApp/Signal: 814-215-0509

Office: 716-831-2626 ext.5

Twitter: @JDale\_Shoemaker

[REDACTED]

487 Main St., #300, Buffalo, NY 14203

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**J. Dale Shoemaker**

Reporter

Cell/WhatsApp/Signal: 814-215-0509

Office: 716-831-2626 ext.5

Twitter: @JDale\_Shoemaker

[REDACTED]

487 Main St., #300, Buffalo, NY 14203

--

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Reporter

Cell/WhatsApp/Signal: 814-215-0509

Office: 716-831-2626 ext.5

Twitter: @JDale\_Shoemaker

[REDACTED]

487 Main St., #300, Buffalo, NY 14203

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**J. Dale Shoemaker**

Reporter

Cell/WhatsApp/Signal: 814-215-0509

Office: 716-831-2626 ext.5

Twitter: @JDale\_Shoemaker

[Redacted]

487 Main St., #300, Buffalo, NY 14203

--

**J. Dale Shoemaker**

Reporter

Cell/WhatsApp/Signal: 814-215-0509

Office: 716-831-2626 ext.5

Twitter: @JDale\_Shoemaker

[Redacted]

[Quoted text hidden]

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**Karim Abdulla** <kaa@foalegal.com> Thu, Jul 6, 2023 at 8:26 AM  
 To: "FBI.FOIPA.NEGOTIATION@FBI.GOV" <FBI.FOIPA.NEGOTIATION@fbi.gov>, "J.Dale Shoemaker" <jdshoemaker@investigativepost.org>  
 Cc: Jim Heaney <jheaney@investigativepost.org>

Good morning, and thank you for the email.

Yes, I am still interested in negotiating this matter.

I am in the process of preparing our position, which I will be forwarding to you later today or tomorrow. I appreciate your patience.

Very truly yours,

Karim

Karim A. Abdulla

**FINNERTY OSTERREICHER & ABDULLA**

70 Niagara Street, Suite 411

Buffalo, New York 14202-3407

Phone: (716) 340 - 2200 x. 225

Fax: (716) 340 - 2300

Mobile: (716) 550 - 1924

[kaa@foalegal.com](mailto:kaa@foalegal.com)[www.foalegal.com](http://www.foalegal.com)

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**Karim Abdulla** <[kaa@foalegal.com](mailto:kaa@foalegal.com)>

Thu, Jul 6, 2023 at 5:20 PM

To: "FBI.FOIPA.NEGOTIATION@FBI.GOV" <[FBI.FOIPA.NEGOTIATION@fbi.gov](mailto:FBI.FOIPA.NEGOTIATION@fbi.gov)>, "J.Dale Shoemaker" <[jdshoemaker@investigativepost.org](mailto:jdshoemaker@investigativepost.org)>Cc: Jim Heaney <[jheaney@investigativepost.org](mailto:jheaney@investigativepost.org)>

Dear Sir/Madam, and members of the FBI FOIA Negotiation Team,

Please accept this on behalf of my client, J. Dale Shoemaker, individually and in his capacity as reporter for Investigative Post, as our formal position with regard to the FBI's response to Mr. Shoemaker's request for records made pursuant to the Freedom of Information Act ("FOIA"), request no. 1585416.

On my review of the correspondence below, it is clear that Mr. Shoemaker's request was sufficiently clear to permit the FBI to locate responsive records. Specifically, "approximately 2,664 pages potentially responsive" to Mr. Shoemaker's request have been identified. Thus, there does not appear to be any issue with the request itself. Rather, the sole issue appears to revolve around the timing of production. In that regard, you have advised that given the volume of potentially responsive pages, Mr. Shoemaker's FOIA request falls into the category of a "large track request" (i.e., "500 - 4,999 pages") which, you have advised, take, on average, approximately 55 months – or nearly 4.6 years – to complete.

It is our position that 55 months is patently unacceptable as a time line for processing the request and producing responsive records.

Respectfully, this issue – i.e., the reasonableness of the length of time required by the FBI to process a FOIA request, review potentially responsive pages, and produce such records – has been considered by several courts. In this regard, I direct your attention to the District Court's decision in *Seavey v. DOJ*, 266 F.Supp.3d 241 (D.D.C., July 20, 2017)(copy attached). In *Seavey*, the plaintiff-requestor (Nina Seavey), a documentary film-maker and academic, submitted numerous FOIA requests to the FBI seeking historical records concerning about individuals, organizations, events, publications, and file numbers relating to the FBI's role in the anti-war movement in St. Louis in the 1960s and 1970s. Those FOIA requests included one made on March 3, 2015, in which she submitted a particularly large request for records to pertaining to hundreds of individuals and organizations, etc. While the FBI on March 23, 2015, acknowledged Ms. Seavey's request, it did little else to respond other than assigning a tracking number. Frustrated, Ms. Seavey brought suit on August 12, 2015 arguing that the FBI had failed to timely respond to her March 3 FOIA request; in that context, she sought an order seeking the processing and production of 5,000 pages per month until the request was complete. In response, the FBI argued that in accordance with its internal policies and procedures, it should have to process no more than 500 pages per month. (In this regard, it is observed that the projected timeline

you have currently provided, i.e., 55 months to process up to 4,999 pages works out to be approximately 90 pages per month; assuming the FBI were to take the full 55 months to process 2,664 pages, that would result in a glacial review pace of 48.4 pages per month, or less than one-tenth of that proposed by the FBI in the *Seavey* matter.) As of May 31, 2017 (i.e., just over two years after the request had been made), the FBI had processed 7,574 pages (i.e., three times the total number of pages at issue in this case). While the FBI at that point identified approximately 151,500 pages of responsive records remaining to be reviewed, the parties were able to narrow that to 102,385 pages. On the proposed processing timelines (i.e., plaintiff's request for 5000 pages per month versus the FBI's request for 500 pages per month), the Court noted that production of the 102,385 pages under the FBI's proposal would take 201 months (as opposed to 21 months under Ms. Seavey's proposal).

Suffice it to say that the Court in *Seavey* did not take kindly to the FBI's position. After going through a thorough analysis of FOIA, the Court concluded that while the statute does not include a set timeline for the actual production of records (as opposed to making a "determination" as to the request, which must be done within 20 working days), FOIA requires that agency records be made "promptly available." See *Seavey*, 266 F.Supp.3d at 244. To be sure, the Court noted, while an agency is entitled to "some additional time to physically redact, duplicate, or assemble for production the documents that it has already gathered and decided to produce," the time frame for such, while context dependent, would "typically be within days or a few weeks of a 'determination,' not months or years." *Seavey*, 266 F.Supp.3d at 244. Since FOIA is silent as to the exact amount of time an agency may have or need to review and produce records, the Court noted it was empowered to use its "equitable powers to require the agency to process documents according to a court-imposed timeline" and that "[i]n devising a remedy the Court is mindful that 'unreasonable delays in disclosing non-exempt documents violate the intent and purpose of the FOIA, and the courts have a duty to prevent [such] abuses.'" *Seavey*, 266 F.Supp.3d at 244, 245, citing *Clemente v. Fed. Bureau of Investigation*, 71 F. Supp. 3d 262, 269 (D.D.C. 2014). In that regard, the FBI in *Seavey* argued (as you have here) that it should be permitted to stick to the status quo and process the request in accordance with its standard policy, assigning the request to the appropriate queue based on the volume of potentially responsive pages. Specifically, and as noted above, the FBI's policy as stated in *Seavey* was to process "large" requests at 500 pages per month, which it did (using that metric in this case, it is noted, would yield a full production in 5 months, not 55 months as currently proposed.) That, the Court noted, would result in a total processing time of almost 17 years. *Seavey*, 266 F.Supp.3d at 246. The Court rejected the FBI's position, noting there was no evidence to justify the proposed processing time, and that merely reciting the general policy and procedure was patently insufficient to justify a production rate of 500 pages per month. Accordingly, the FBI was ordered to process and produce records at a rate of not less than 2,850 pages per month. *Seavey*, 266 F.Supp.3d at 248.

Other courts have routinely directed the review and production of responsive documents at rates of between 500 – 5,000 pages per month. See, e.g., *ACLU v United States Dept. of Homeland Sec.*, 2021 US Dist LEXIS 227089, at \*4 (SDNY Nov. 19, 2021)(500 pages per month reasonable)); *Clemente v. Fed. Bureau of Investigation*, 71 F. Supp. 3d 262, 269 (D.D.C. 2014) (5,000 pages per month reasonable); *Villanueva v United States DOJ*, 2021 US Dist LEXIS 237920, at \*9 (SD Fla Dec. 13, 2021) (ordering review and production of 5,125 pages per month); *Middle E. Forum v United States Dept. of Homeland Sec.*, 297 F Supp 3d 183, 187 (DDC 2018)(500 pages per month)); *Project S. v United States Immigration & Customs Enforcement*, 2022 US Dist LEXIS 120162, at \*5 (SDNY July 7, 2022)(requiring ICE to process 500 pages per month). The FBI's proposed processing rate in this case, i.e., an effective rate of less than 50 pages per month, is thus wholly unacceptable. Given the state of the law, we are confident that a court of competent jurisdiction would agree. (In that regard, please be advised that my clients reserve all rights with respect thereto.)

We hope that, in light of the foregoing, the FBI is willing to review and reconsider its previously stated position that it could take up to 55 months to review and produce the requested records. By all accounts – and based on the prevailing legal authority – it is our position that the requested records should be made available within, **at most**, the next several months (if not within the next month).

Please advise.

[Quoted text hidden]

 **Seavey FBI FOIA decision.pdf**  
161K

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**FBI.FOIPA.NEGOTIATION@FBI.GOV** <FBI.FOIPA.NEGOTIATION@fbi.gov> Fri, Jul 7, 2023 at 10:12 AM  
To: Karim Abdulla <kaa@foalegal.com>, "J.Dale Shoemaker" <jdshoemaker@investigativepost.org>  
Cc: Jim Heaney <jheaney@investigativepost.org>

Good morning Mr. Abdulla,

Thank you for your thoughtful response. We understand your concern with the estimated time it would take to complete your request.

Are we understanding correctly that you do not wish to narrow the scope of your request at this time?

Respectfully,

Negotiation Team  
Federal Bureau of Investigation  
[Fbi.foipa.negotiation@fbi.gov](mailto:Fbi.foipa.negotiation@fbi.gov)

Status Checks: <https://vault.fbi.gov/fdps-1/@@search-fdps> | [foipaquestions@fbi.gov](mailto:foipaquestions@fbi.gov)

For additional information, please visit the [www.fbi.gov/foia](http://www.fbi.gov/foia) website.



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**Karim Abdulla** <kaa@foalegal.com> Fri, Jul 7, 2023 at 11:10 AM  
To: "J.Dale Shoemaker" <jdshoemaker@investigativepost.org>

Dale –

How would you like me to respond?

Thanks,

Karim

[Quoted text hidden]



**Karim Abdulla** <kaa@foalegal.com>

Fri, Jul 7, 2023 at 12:49 PM

To: "FBI.FOIPA.NEGOTIATION@FBI.GOV" <FBI.FOIPA.NEGOTIATION@fbi.gov>, "J.Dale Shoemaker" <jdshoemaker@investigativepost.org>

Cc: Jim Heaney <jheaney@investigativepost.org>

Yes, your understanding is correct. We are not presently seeking to narrow the scope of the request. Rather, we would simply like to have the records produced in a timely manner that is consistent with what the courts have required in analogous cases.

Please advise whether the FBI's FOIA review and response team can (and will) accommodate this reasonable request, i.e., production at a rate of between 500 -2500 pages per month (as based on the legal authority previously provided) so that my client can count on having the documents in hand within the next couple of months. As Mr. Shoemaker previously advised, a "rolling" production (i.e., sending out the responsive documents in batches as they are reviewed, as opposed to waiting until all the pages have been reviewed) is acceptable.

Thank you,

Karim

Karim A. Abdulla

**FINNERTY OSTERREICHER & ABDULLA**

70 Niagara Street, Suite 411

Buffalo, New York 14202-3407

Phone: (716) 340 - 2200 x. 225

Fax: (716) 340 - 2300

Mobile: (716) 550 - 1924

[kaa@foalegal.com](mailto:kaa@foalegal.com)

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

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**From:** [FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV) <[FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV)>

**Sent:** Friday, July 7, 2023 10:12 AM

[Quoted text hidden]

[Quoted text hidden]

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**FBI.FOIPA.NEGOTIATION@FBI.GOV** <[FBI.FOIPA.NEGOTIATION@fbi.gov](mailto:FBI.FOIPA.NEGOTIATION@fbi.gov)> Fri, Jul 7, 2023 at 1:17 PM  
To: Karim Abdulla <[kaa@foalegal.com](mailto:kaa@foalegal.com)>, "J.Dale Shoemaker" <[jdshoemaker@investigativepost.org](mailto:jdshoemaker@investigativepost.org)>  
Cc: Jim Heaney <[jheaney@investigativepost.org](mailto:jheaney@investigativepost.org)>

Good afternoon Mr. Abdulla,

We will keep your request as-is and push it along in the large track. When this case gets assigned to a FOIA analyst releases will be made in approximately 500 page increments until all of the responsive material has been released.

[Quoted text hidden]

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**Karim Abdulla** <[kaa@foalegal.com](mailto:kaa@foalegal.com)> Fri, Jul 7, 2023 at 2:00 PM  
To: "FBI.FOIPA.NEGOTIATION@FBI.GOV" <[FBI.FOIPA.NEGOTIATION@fbi.gov](mailto:FBI.FOIPA.NEGOTIATION@fbi.gov)>, "J.Dale Shoemaker" <[jdshoemaker@investigativepost.org](mailto:jdshoemaker@investigativepost.org)>  
Cc: Jim Heaney <[jheaney@investigativepost.org](mailto:jheaney@investigativepost.org)>

Thank you –

I appreciate the update and the commitment to production on a rolling basis and to "push it along" (although, admittedly, I'm not quite sure what that means).

Your message, however, is vague as to two critical issues: (1) how long (approximately) until the case actually gets assigned to a FOIA analyst; and (2) once the case is assigned to the analyst, will the review and production be consistent with what I outlined is our expectation?

From your response, it is hard to tell what my client should expect. For example, based on your email it appears entirely possible that the matter could be assigned to a FOIA analyst next week and, assuming a processing rate of 500-1000 pages per month, a full production could be had within several months. That would be a most welcome (and appreciated) example of pushing it along. However, I have to allow that it is also entirely possible that the matter may not be assigned until sometime later this year (or possibly next year, or perhaps beyond depending on volume) and will then only be processed at a rate of 50-100 pages per month, resulting in a full production taking several years (or more).

This, of course, takes us right back to where we started, and the question I posed earlier: is the FBI willing and able to process my client's request in such a manner that my client can count on having the documents in hand within the next several months? Or are we back to the original estimate of large track requests taking on average 55 months to process?

I appreciate your time and consideration of the matter, and would like to provide my client with more clarity in this regard

[Quoted text hidden]

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**FBI.FOIPA.NEGOTIATION@FBI.GOV** <FBI.FOIPA.NEGOTIATION@fbi.gov>

Tue, Jul 18, 2023 at 9:24 AM

To: Karim Abdulla <kaa@foalegal.com>, "J.Dale Shoemaker" <jdshoemaker@investigativepost.org>

Cc: Jim Heaney <jheaney@investigativepost.org>

Good morning Mr. Abdulla,

Thank you for your email response. Large track requests (501-4,999 pages) current average time is approximately 55 months to complete. We process requests in order of receipt based on the sizes described in my initial email.

Respectfully,

Negotiation Team

Federal Bureau of Investigation

[Fbi.foipa.negotiation@fbi.gov](mailto:Fbi.foipa.negotiation@fbi.gov)

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For additional information, please visit the [www.fbi.gov/foia](http://www.fbi.gov/foia) website.





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**From:** Karim Abdulla <[kaa@foalegal.com](mailto:kaa@foalegal.com)>  
**Sent:** Friday, July 7, 2023 2:01 PM  
**To:** FBI.FOIPA.NEGOTIATION <[FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV)>; J.Dale Shoemaker <[jdshoemaker@investigativepost.org](mailto:jdshoemaker@investigativepost.org)>  
**Cc:** Jim Heaney <[jheaney@investigativepost.org](mailto:jheaney@investigativepost.org)>  
**Subject:** [EXTERNAL EMAIL] - RE: FOIA# 1585416/ Western Regional Off-track Betting Corporation

Thank you –

I appreciate the update and the commitment to production on a rolling basis and to “push it along” (although, admittedly, I’m not quite sure what that means).

Your message, however, is vague as to two critical issues: (1) how long (approximately) until the case actually gets assigned to a FOIA analyst; and (2) once the case is assigned to the analyst, will the review and production be consistent with what I outlined is our expectation?

From your response, it is hard to tell what my client should expect. For example, based on your email it appears entirely possible that the matter could be assigned to a FOIA analyst next week and, assuming a processing rate of 500-1000 pages per month, a full production could be had within several months. That would be a most welcome (and appreciated) example of pushing it along. However, I have to allow that it is also entirely possible that the matter may not be assigned until sometime later this year (or possibly next year, or perhaps beyond depending on volume) and will then only be processed at a rate of 50-100 pages per month, resulting in a full production taking several years (or more).

This, of course, takes us right back to where we started, and the question I posed earlier: is the FBI willing and able to process my client’s request in such a manner that my client can count on having the documents in hand within the next several months? Or are we back to the original estimate of large track requests taking on average 55 months to process?

I appreciate your time and consideration of the matter, and would like to provide my client with more clarity in this regard

Very truly yours,

Karim

Karim A. Abdulla

**FINNERTY OSTERREICHER & ABDULLA**

70 Niagara Street, Suite 411

Buffalo, New York 14202-3407

Phone: (716) 340 - 2200 x. 225

Fax: (716) 340 - 2300

Mobile: (716) 550 - 1924

[kaa@foalegal.com](mailto:kaa@foalegal.com)

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

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**From:** [FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV) <[FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV)>

**Sent:** Friday, July 7, 2023 1:17 PM

**To:** Karim Abdulla <[kaa@foalegal.com](mailto:kaa@foalegal.com)>; J.Dale Shoemaker <[jdshoemaker@investigativepost.org](mailto:jdshoemaker@investigativepost.org)>

**Cc:** Jim Heaney <[jheaney@investigativepost.org](mailto:jheaney@investigativepost.org)>

**Subject:** RE: FOIA# 1585416/ Western Regional Off-track Betting Corporation

Good afternoon Mr. Abdulla,

We will keep your request as-is and push it along in the large track. When this case gets assigned to a FOIA analyst releases will be made in approximately 500 page increments until all of the responsive material has been released.

Respectfully,

Negotiation Team

Federal Bureau of Investigation

[Fbi.foipa.negotiation@fbi.gov](mailto:Fbi.foipa.negotiation@fbi.gov)

Status Checks: <https://vault.fbi.gov/fdps-1/@@search-fdps> | [foipaquestions@fbi.gov](mailto:foipaquestions@fbi.gov)

For additional information, please visit the [www.fbi.gov/foia](http://www.fbi.gov/foia) website.



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**From:** Karim Abdulla <[kaa@foalegal.com](mailto:kaa@foalegal.com)>  
**Sent:** Friday, July 7, 2023 12:50 PM  
**To:** FBI.FOIPA.NEGOTIATION <[FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV)>; J.Dale Shoemaker <[jdshoemaker@investigativepost.org](mailto:jdshoemaker@investigativepost.org)>  
**Cc:** Jim Heaney <[jheaney@investigativepost.org](mailto:jheaney@investigativepost.org)>  
**Subject:** [EXTERNAL EMAIL] - RE: FOIA# 1585416/ Western Regional Off-track Betting Corporation

Yes, your understanding is correct. We are not presently seeking to narrow the scope of the request. Rather, we would simply like to have the records produced in a timely manner that is consistent with what the courts have required in analogous cases.

Please advise whether the FBI's FOIA review and response team can (and will) accommodate this reasonable request, i.e., production at a rate of between 500 -2500 pages per month (as based on the legal authority previously provided) so that my client can count on having the documents in hand within the next couple of months. As Mr. Shoemaker previously advised, a "rolling" production (i.e., sending out the responsive documents in batches as they are reviewed, as opposed to waiting until all the pages have been reviewed) is acceptable.

Thank you,

Karim

Karim A. Abdulla

**FINNERTY OSTERREICHER & ABDULLA**

70 Niagara Street, Suite 411

Buffalo, New York 14202-3407

Phone: (716) 340 - 2200 x. 225

Fax: (716) 340 - 2300

Mobile: (716) 550 - 1924

[kaa@foalegal.com](mailto:kaa@foalegal.com)

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

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**From:** [FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV) <[FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV)>  
**Sent:** Friday, July 7, 2023 10:12 AM  
**To:** Karim Abdulla <[kaa@foalegal.com](mailto:kaa@foalegal.com)>; J.Dale Shoemaker <[jdshoemaker@investigativepost.org](mailto:jdshoemaker@investigativepost.org)>  
**Cc:** Jim Heaney <[jheaney@investigativepost.org](mailto:jheaney@investigativepost.org)>  
**Subject:** RE: FOIA# 1585416/ Western Regional Off-track Betting Corporation

Good morning Mr. Abdulla,

Thank you for your thoughtful response. We understand your concern with the estimated time it would take to complete your request.

Are we understanding correctly that you do not wish to narrow the scope of your request at this time?

Respectfully,

Negotiation Team  
Federal Bureau of Investigation  
[Fbi.foipa.negotiation@fbi.gov](mailto:Fbi.foipa.negotiation@fbi.gov)

Status Checks: <https://vault.fbi.gov/fdps-1/@@search-fdps> | [foipaquestions@fbi.gov](mailto:foipaquestions@fbi.gov)

For additional information, please visit the [www.fbi.gov/foia](http://www.fbi.gov/foia) website.



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**From:** Karim Abdulla <[kaa@foalegal.com](mailto:kaa@foalegal.com)>  
**Sent:** Thursday, July 6, 2023 5:20 PM  
**To:** FBI.FOIPA.NEGOTIATION <[FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV)>; J.Dale Shoemaker <[jdshoemaker@investigativepost.org](mailto:jdshoemaker@investigativepost.org)>  
**Cc:** Jim Heaney <[jheaney@investigativepost.org](mailto:jheaney@investigativepost.org)>  
**Subject:** [EXTERNAL EMAIL] - RE: FOIA# 1585416/ Western Regional Off-track Betting Corporation

Dear Sir/Madam, and members of the FBI FOIA Negotiation Team,

Please accept this on behalf of my client, J. Dale Shoemaker, individually and in his capacity as reporter for Investigative Post, as our formal position with regard to the FBI's response to Mr. Shoemaker's request for records made pursuant to the Freedom of Information Act ("FOIA"), request no. 1585416.

On my review of the correspondence below, it is clear that Mr. Shoemaker's request was sufficiently clear to permit the FBI to locate responsive records. Specifically, "approximately 2,664 pages potentially responsive" to Mr. Shoemaker's request have been identified. Thus, there does not appear to be any issue with the request itself. Rather, the sole issue appears to revolve around the timing of production. In that regard, you have advised that given the volume of potentially responsive pages, Mr. Shoemaker's FOIA request falls into the category of a "large track request" (i.e., "500 - 4,999 pages") which, you have advised, take, on average, approximately 55 months – or nearly 4.6 years – to complete.

It is our position that 55 months is patently unacceptable as a time line for processing the request and producing responsive records.

Respectfully, this issue – i.e., the reasonableness of the length of time required by the FBI to process a FOIA request, review potentially responsive pages, and produce such records – has been considered by several courts. In this regard, I direct your attention to the District Court's decision in *Seavey v. DOJ*, 266 F.Supp.3d 241 (D.D.C., July 20, 2017)(copy attached). In *Seavey*, the plaintiff-requestor (Nina Seavey), a documentary film-maker and academic, submitted numerous FOIA requests to the FBI seeking historical records concerning about individuals, organizations, events, publications, and file numbers relating to the FBI's role in the anti-war movement in St. Louis in the 1960s and 1970s. Those FOIA requests included one made on March 3, 2015, in which she submitted a particularly large request for records to pertaining to hundreds of individuals and organizations, etc. While the FBI on March 23, 2015, acknowledged Ms. Seavey's request, it did little else to respond other than assigning a tracking number. Frustrated, Ms. Seavey brought suit on August 12, 2015 arguing that the FBI had failed to timely respond to her March 3 FOIA request; in that context, she sought an order seeking the processing and production of 5,000 pages per month until the request was complete. In response, the FBI argued that in accordance with its internal policies and procedures, it should have to process no more than 500 pages per month. (In this regard, it is observed that the projected timeline you have currently provided, i.e., 55 months to process up to 4,999 pages works out to be approximately 90 pages per month; assuming the FBI were to take the full 55 months to process 2,664 pages, that would result in a glacial review pace of 48.4 pages per month, or less than one-tenth of that proposed by the FBI in the *Seavey* matter.) As of May 31, 2017 (i.e., just over two years after the request had been made), the FBI had processed 7,574 pages (i.e., three times the total number of pages at issue in this case). While the FBI at that point identified approximately 151,500 pages of responsive records remaining to be reviewed, the parties were able to narrow that to 102,385 pages. On the proposed processing timelines (i.e., plaintiff's request for 5000 pages per month versus the FBI's request for 500 pages per month), the Court noted that production of the 102,385 pages under the FBI's proposal would take 201 months (as opposed to 21 months under Ms. Seavey's proposal).

Suffice it to say that the Court in *Seavey* did not take kindly to the FBI's position. After going through a thorough analysis of FOIA, the Court concluded that while the statute does not include a set timeline for the actual production of records (as opposed to making a "determination" as to the request, which must be done within 20 working days), FOIA requires that agency records be made "promptly available." See *Seavey*, 266 F.Supp.3d at 244. To be sure, the Court noted, while an agency is entitled to "some additional time to physically redact, duplicate, or assemble for production the documents that it has already gathered and decided to produce," the time frame for such, while context dependent, would "typically be within days or a few weeks of a 'determination,' not months or years." *Seavey*, 266 F.Supp.3d at 244. Since FOIA is silent as to the exact amount of time an agency may have or need to review and produce records, the Court noted it was empowered to use its "equitable powers to require the agency to process documents according to a court-imposed timeline" and that "[i]n devising a remedy the Court is mindful that 'unreasonable delays in disclosing non-exempt documents violate the intent and purpose of the FOIA, and the courts have a duty to prevent [such] abuses.'" *Seavey*, 266 F.Supp.3d at 244, 245, citing *Clemente v. Fed. Bureau of Investigation*, 71 F. Supp. 3d 262, 269 (D.D.C. 2014). In that regard, the FBI in *Seavey* argued (as you have here) that it should be permitted to stick to the status quo and process the request in accordance with its standard policy,

assigning the request to the appropriate queue based on the volume of potentially responsive pages. Specifically, and as noted above, the FBI's policy as stated in *Seavey* was to process "large" requests at 500 pages per month, which it did (using that metric in this case, it is noted, would yield a full production in 5 months, not 55 months as currently proposed.) That, the Court noted, would result in a total processing time of almost 17 years. *Seavey*, 266 F.Supp.3d at 246. The Court rejected the FBI's position, noting there was no evidence to justify the proposed processing time, and that merely reciting the general policy and procedure was patently insufficient to justify a production rate of 500 pages per month. Accordingly, the FBI was ordered to process and produce records at a rate of not less than 2,850 pages per month. *Seavey*, 266 F.Supp.3d at 248.

Other courts have routinely directed the review and production of responsive documents at rates of between 500 – 5,000 pages per month. See, e.g., *ACLU v United States Dept. of Homeland Sec.*, 2021 US Dist LEXIS 227089, at \*4 (SDNY Nov. 19, 2021)(500 pages per month reasonable); *Clemente v. Fed. Bureau of Investigation*, 71 F. Supp. 3d 262, 269 (D.D.C. 2014) (5,000 pages per month reasonable); *Villanueva v United States DOJ*, 2021 US Dist LEXIS 237920, at \*9 (SD Fla Dec. 13, 2021) (ordering review and production of 5,125 pages per month); *Middle E. Forum v United States Dept. of Homeland Sec.*, 297 F Supp 3d 183, 187 (DDC 2018)(500 pages per month); *Project S. v United States Immigration & Customs Enforcement*, 2022 US Dist LEXIS 120162, at \*5 (SDNY July 7, 2022)(requiring ICE to process 500 pages per month). The FBI's proposed processing rate in this case, i.e., an effective rate of less than 50 pages per month, is thus wholly unacceptable. Given the state of the law, we are confident that a court of competent jurisdiction would agree. (In that regard, please be advised that my clients reserve all rights with respect thereto.)

We hope that, in light of the foregoing, the FBI is willing to review and reconsider its previously stated position that it could take up to 55 months to review and produce the requested records. By all accounts – and based on the prevailing legal authority – it is our position that the requested records should be made available within, **at most**, the next several months (if not within the next month).

Please advise.

Very truly yours,

Karim

Karim A. Abdulla

**FINNERTY OSTERREICHER & ABDULLA**

70 Niagara Street, Suite 411

Buffalo, New York 14202-3407

Phone: (716) 340 - 2200 x. 225

Fax: (716) 340 - 2300

Mobile: (716) 550 - 1924

[kaa@foalegal.com](mailto:kaa@foalegal.com)

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

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**From:** Karim Abdulla  
**Sent:** Thursday, July 6, 2023 8:27 AM  
**To:** [FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV); J.Dale Shoemaker <[jdshoemaker@investigativepost.org](mailto:jdshoemaker@investigativepost.org)>  
**Cc:** Jim Heaney <[jheaney@investigativepost.org](mailto:jheaney@investigativepost.org)>  
**Subject:** RE: FOIA# 1585416/ Western Regional Off-track Betting Corporation

Good morning, and thank you for the email.

Yes, I am still interested in negotiating this matter.

I am in the process of preparing our position, which I will be forwarding to you later today or tomorrow. I appreciate your patience.

Very truly yours,

Karim

Karim A. Abdulla

**FINNERTY OSTERREICHER & ABDULLA**

70 Niagara Street, Suite 411

Buffalo, New York 14202-3407

Phone: (716) 340 - 2200 x. 225

Fax: (716) 340 - 2300

Mobile: (716) 550 - 1924

[kaa@foalegal.com](mailto:kaa@foalegal.com)

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

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**From:** [FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV) <[FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV)>  
**Sent:** Thursday, July 6, 2023 7:52 AM  
**To:** J.Dale Shoemaker <[jdshoemaker@investigativepost.org](mailto:jdshoemaker@investigativepost.org)>  
**Cc:** Karim Abdulla <[kaa@foalegal.com](mailto:kaa@foalegal.com)>; Jim Heaney <[jheaney@investigativepost.org](mailto:jheaney@investigativepost.org)>  
**Subject:** Re: FOIA# 1585416/ Western Regional Off-track Betting Corporation

Good morning Mr. Shoemaker,

Please advise if you are still interested in negotiating this case.

Thank you for your time.

Respectfully,

Negotiation Team

Federal Bureau of Investigation

[Fbi.foipa.negotiation@fbi.gov](mailto:Fbi.foipa.negotiation@fbi.gov)

Status Checks: <https://vault.fbi.gov/fdps-1/@@search-fdps> | [foipaquestions@fbi.gov](mailto:foipaquestions@fbi.gov)

For additional information, please visit the [www.fbi.gov/foia](http://www.fbi.gov/foia) website.



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**From:** J.Dale Shoemaker <[jdshoemaker@investigativepost.org](mailto:jdshoemaker@investigativepost.org)>

**Sent:** Thursday, June 29, 2023 3:49 PM

**To:** FBI.FOIPA.NEGOTIATION <[FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV)>

**Cc:** Karim Abdulla <[kaa@foalegal.com](mailto:kaa@foalegal.com)>; Jim Heaney <[jheaney@investigativepost.org](mailto:jheaney@investigativepost.org)>

**Subject:** Re: [EXTERNAL EMAIL] - Re: FOIA# 1585416/ Western Regional Off-track Betting Corporation

Hi there,

Thank you for letting me know about your policy to keep everything in writing. We'll communicate that way moving forward.

To that end, I and my editor, Jim Heaney, feel it's in our best interest to have our attorney, Karim Abdulla, communicate with your team on our behalf from here on. Both Mr. Heaney and Mr. Abdulla are copied on this email. Please let this email serve as me authorizing Mr. Abdulla to negotiate with you on behalf of me and Investigative Post with regard to this matter.



Mr. Abdulla will be following up in the near future to continue this discussion.

All the best,

Dale

On Wed, Jun 28, 2023 at 2:16 PM [FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV) <[FBI.FOIPA.NEGOTIATION@fbi.gov](mailto:FBI.FOIPA.NEGOTIATION@fbi.gov)> wrote:

Good afternoon Mr. Shoemaker,

We communicate by email to have receipt of conversations had. Please let us know if you have any further questions that we can clarify and if you are interested in negotiating this request via email.

Respectfully,

Negotiation Team

Federal Bureau of Investigation

[Fbi.foipa.negotiation@fbi.gov](mailto:Fbi.foipa.negotiation@fbi.gov)

Status Checks: <https://vault.fbi.gov/fdps-1/@@search-fdps> | [foipaquestions@fbi.gov](mailto:foipaquestions@fbi.gov)

For additional information, please visit the [www.fbi.gov/foia](http://www.fbi.gov/foia) website.



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**From:** J.Dale Shoemaker <[jdshoemaker@investigativepost.org](mailto:jdshoemaker@investigativepost.org)>  
**Sent:** Wednesday, June 28, 2023 11:19 AM  
**To:** FBI.FOIPA.NEGOTIATION <[FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV)>  
**Subject:** Re: [EXTERNAL EMAIL] - Re: FOIA# 1585416/ Western Regional Off-track Betting Corporation

Hi there,

Appreciate your response. It would be much easier for me and my fellow reporter to continue these discussions over the phone. Could you please provide a phone number that I could reach you at?

Thank you,

Dale

On Fri, Jun 23, 2023 at 2:13 PM [FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV) <[FBI.FOIPA.NEGOTIATION@fbi.gov](mailto:FBI.FOIPA.NEGOTIATION@fbi.gov)> wrote:

Good afternoon Mr. Shoemaker,

Thank you for the clarification email. A FOIA analyst has yet to review this material so we are limited in what we can say, though we can let you know the material falls between the years of 1982-2023. We can structure a request around a specific time-frame and move it to the track that would best suit you. You are only able to have one case open per subject. If you choose to negotiate this request down, then you are welcome to submit a new request for additional material upon the completion of the current negotiated request. You may submit your request electronically at <https://efoia.fbi.gov> (available 24 hours a day), fax it to 540-868-4997, or mail it to FBI, Attn: FOIPA Request, [200 Constitution Drive, Winchester, VA 22602-4843](https://www.fbi.gov/contact-us/locations/va). Please be sure to include your contact information, to include complete mailing address, on any correspondence.

Please advise how you would like to proceed.

Respectfully,

Negotiation Team

Federal Bureau of Investigation

[Fbi.foipa.negotiation@fbi.gov](mailto:Fbi.foipa.negotiation@fbi.gov)

Status Checks: <https://vault.fbi.gov/fdps-1/@@search-fdps> | [foipaquestions@fbi.gov](mailto:foipaquestions@fbi.gov)

For additional information, please visit the [www.fbi.gov/foia](http://www.fbi.gov/foia) website.



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**From:** J.Dale Shoemaker <[jdshoemaker@investigativepost.org](mailto:jdshoemaker@investigativepost.org)>

**Sent:** Friday, June 23, 2023 10:10 AM

**To:** FBI.FOIPA.NEGOTIATION <FBI.FOIPA.NEGOTIATION@FBI.GOV>

**Subject:** Re: [EXTERNAL EMAIL] - Re: FOIA# 1585416/ Western Regional Off-track Betting Corporation

Hi there,

Please accept my sincere apologies! I sent my last email from a hotel with very poor Wifi and it appears things got lost in translation. Here's what I meant to reply:

In my original request, I asked for "all 302s, investigative files, memos, letters and reports related to or containing mention of" a handful of names and entities, including: George Maziarz, Mark Gabriele, Henry Wojtaszek, Richard Bianchi, Mark Onesi, Henry Sloma, Samuel Ferraro, Western Regional Off-Track Betting Corporation, Niagara County Industrial Development Agency (IDA) and Niagara County Center for Economic Development.

In your message to me yesterday, you asked about narrowing the scope of this request, based on the timelines you provided for processing.

This is a question I have: Would it be possible to segment my original request into smaller pieces, and receive records piecemeal as your agency completes processing?

If that is possible, I would like to segment the request in the following way:

- I would like all 302s, investigative files, memos, letters and reports related to or containing mention of Henry Wojtaszek and Mark Gabriele first.

- I would like all 302s, investigative files, memos, letters and reports related to or containing mention of Western Regional Off-Track Betting and the Niagara County Industrial Development Agency second.

- I would like all 302s, investigative files, memos, letters and reports related to or containing mention of Richard Bianchi and Mark Onesi third.

- And I would like all 302s, investigative files, memos, letters and reports related to or containing mention of Henry Sloma and Sam Ferraro last.

Could we segment and process my request in that way? If that is possible, could you provide an estimated number of pages and processing time for Segment #1?

Please let me know. I am at 814-215-0509 if it's easier to discuss this over the phone.

Thank you again,

Dale

On Fri, Jun 23, 2023 at 7:32 AM [FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV) <[FBI.FOIPA.NEGOTIATION@fbi.gov](mailto:FBI.FOIPA.NEGOTIATION@fbi.gov)> wrote:

Good morning Mr. Shoemaker,

Thank you for your email and your potential willingness to negotiate. Can you please elaborate on the names listed in the email below?

Respectfully,

Negotiation Team

Federal Bureau of Investigation

[Fbi.foipa.negotiation@fbi.gov](mailto:Fbi.foipa.negotiation@fbi.gov)

Status Checks: <https://vault.fbi.gov/fdps-1/@@search-fdps> | [foipaquestions@fbi.gov](mailto:foipaquestions@fbi.gov)

For additional information, please visit the [www.fbi.gov/foia](http://www.fbi.gov/foia) website.



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**From:** J.Dale Shoemaker <[jdshoemaker@investigativepost.org](mailto:jdshoemaker@investigativepost.org)>

**Sent:** Thursday, June 22, 2023 4:41 PM

**To:** [FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV)

**Subject:** [EXTERNAL EMAIL] - Re: FOIA# 1585416/ Western Regional Off-track Betting Corporation

Hi there,

Thank you so much for reaching out about this request. It's nice to hear from you.

As you might imagine, as a journalist, I would like to receive these records as soon as possible. So, let me ask a question:

Would it be possible to narrow my request into segments, and process them one at a time?

For example, I would like to receive records related to Mark Gabriele and Henry Wojtaszek first - is it possible to process those first? If so, what is the timeline?

If that is a feasible solution, I'd like the records processed and sent in the following order:

- Mark Gabriele and Henry Wojtaszek
- Richard Bianchi and Mark Onesi
- Western Regional Off-Track Betting and the
- Niagara County Industrial Development Agency
- Henry Sloma and Samuel Ferraro

Again, my goal here is to receive records sooner than later and I'm willing to be flexible to make that happen.

Please let me know your thoughts and what might be a feasible path forward.

Thank you,

Dale

On Thu, Jun 22, 2023 at 10:29 AM [FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV)  
<[FBI.FOIPA.NEGOTIATION@fbi.gov](mailto:FBI.FOIPA.NEGOTIATION@fbi.gov)> wrote:

Good morning Mr. Shoemaker,

We're contacting you in reference to the FOIPA request number included in the subject line of this email. The FBI located approximately 2,664 pages potentially responsive to your request. In your request, you were willing to pay \$50.00 for processing.

Requests are processed in the order in which they are received through our multi-track processing system:

Small track requests (0-50 pages) current average time is approximately 4 months to complete;

Medium track requests (51-500 pages) current average time is approximately 35 months to complete;

Large track requests (501-4,999 pages) current average time is approximately 55 months to complete; and

Extra-large track requests (over 5,000 pages) current average time is approximately 77 months to complete.

The current average time to complete your large track request is at least 55 months. Reducing the scope of your request may accelerate the processing, allow for a timelier receipt of the information you seek, and reduce the duplication costs, if applicable. Would you be willing to consider reducing the scope of your request to place it in a smaller, potentially faster processing track?

Please let us know if this is something you would be interested in further discussing. If you chose to narrow the scope of your request, you will be able to request remaining material via a new FOIPA request submission at the completion of this request, subject to applicable fees.

Respectfully,

Negotiation Team

Federal Bureau of Investigation

[Fbi.foipa.negotiation@fbi.gov](mailto:Fbi.foipa.negotiation@fbi.gov)

Status Checks: <https://vault.fbi.gov/fdps-1/@@search-fdps> | [foipaquestions@fbi.gov](mailto:foipaquestions@fbi.gov)

For additional information, please visit the [www.fbi.gov/foia](http://www.fbi.gov/foia) website.

[Redacted signature]

--

**J. Dale Shoemaker**

Reporter

Cell/WhatsApp/Signal: 814-215-0509

Office: 716-831-2626 ext.5

Twitter: @JDale\_Shoemaker

[Redacted signature]

487 Main St., #300, Buffalo, NY 14203

--

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Office: 716-831-2626 ext.5

Twitter: @JDale\_Shoemaker



487 Main St., #300, Buffalo, NY 14203

**J.Dale Shoemaker** <jdshoemaker@investigativepost.org>

Tue, Jul 18, 2023 at 10:54 AM

To: Karim Abdulla <kaa@foalegal.com>, Jim Heaney <jheaney@investigativepost.org>, Geoff Kelly <gkelly@investigativepost.org>

This is unfortunate. Karim, what do you think? What's our path forward? Should we schedule a call? Jim, what do you think?

Dale

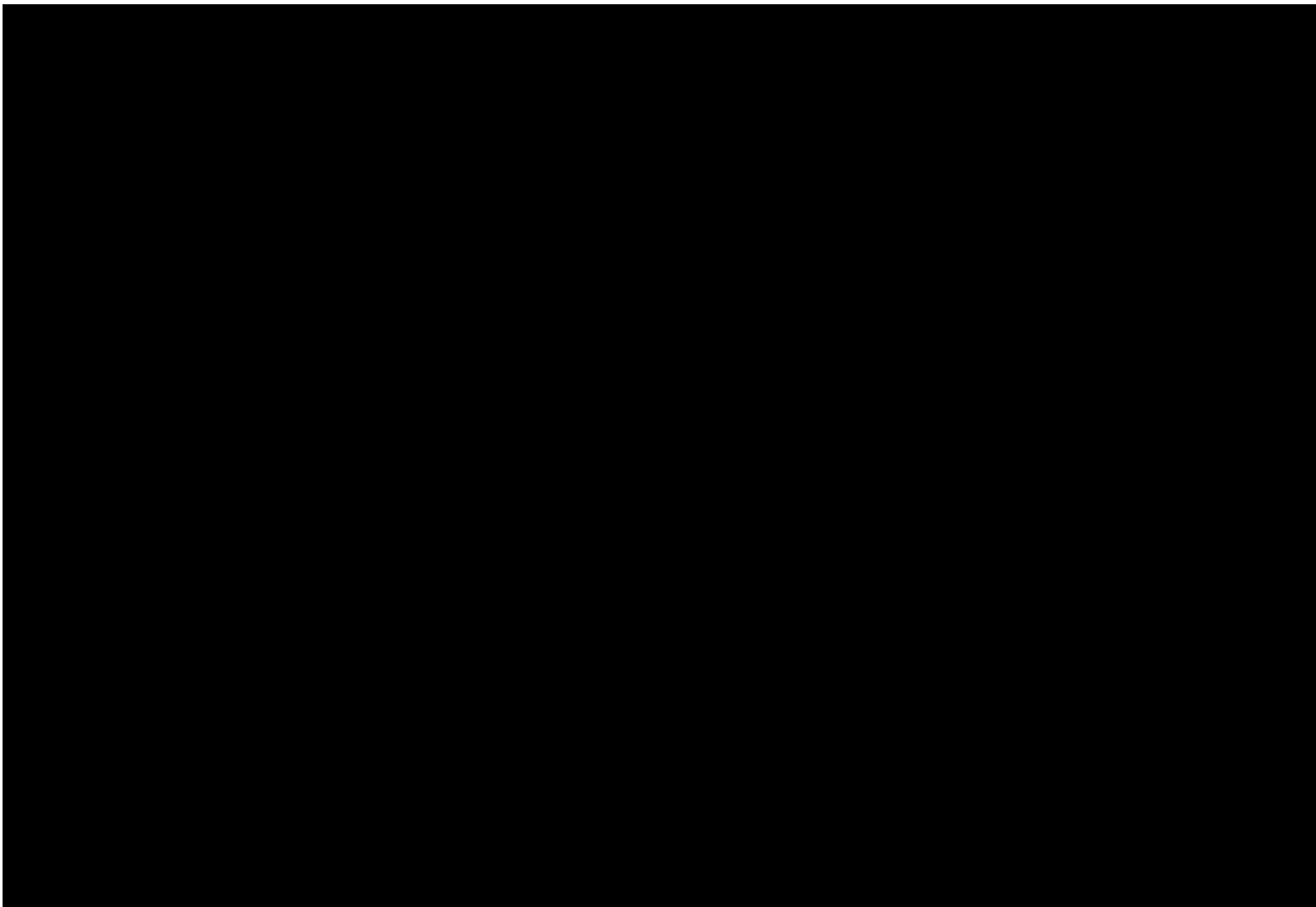
[Quoted text hidden]

**J. Dale Shoemaker**

[Quoted text hidden]

**Investigative**Post

[Quoted text hidden]





[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Date: Tue, Jul 18, 2023 at 9:24 AM  
Subject: RE: FOIA# 1585416/ Western Regional Off-track Betting Corporation  
To: Karim Abdulla <[kaa@foalegal.com](mailto:kaa@foalegal.com)>, J.Dale Shoemaker <[jdshoemaker@investigativepost.org](mailto:jdshoemaker@investigativepost.org)>  
Cc: Jim Heaney <[jheaney@investigativepost.org](mailto:jheaney@investigativepost.org)>

Good morning Mr. Abdulla,

Thank you for your email response. Large track requests (501-4,999 pages) current average time is approximately 55 months to complete. We process requests in order of receipt based on the sizes described in my initial email.

Respectfully,

Negotiation Team  
Federal Bureau of Investigation  
[Fbi.foipa.negotiation@fbi.gov](mailto:Fbi.foipa.negotiation@fbi.gov)

Status Checks: <https://vault.fbi.gov/fdps-1/@@search-fdps> | [foipaquestions@fbi.gov](mailto:foipaquestions@fbi.gov)

For additional information, please visit the [www.fbi.gov/foia](http://www.fbi.gov/foia) website.



---

**From:** Karim Abdulla <[kaa@foalegal.com](mailto:kaa@foalegal.com)>  
**Sent:** Friday, July 7, 2023 2:01 PM  
**To:** FBI.FOIPA.NEGOTIATION <[FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV)>; J.Dale Shoemaker <[jdshoemaker@investigativepost.org](mailto:jdshoemaker@investigativepost.org)>  
**Cc:** Jim Heaney <[jheaney@investigativepost.org](mailto:jheaney@investigativepost.org)>  
**Subject:** [EXTERNAL EMAIL] - RE: FOIA# 1585416/ Western Regional Off-track Betting Corporation

Thank you –

I appreciate the update and the commitment to production on a rolling basis and to “push it along” (although, admittedly, I’m not quite sure what that means).

Your message, however, is vague as to two critical issues: (1) how long (approximately) until the case actually gets assigned to a FOIA analyst; and (2) once the case is assigned to the analyst, will the review and production be consistent with what I outlined is our expectation?

From your response, it is hard to tell what my client should expect. For example, based on your email it appears entirely possible that the matter could be assigned to a FOIA analyst next week and, assuming a processing rate of 500-1000 pages per month, a full production could be had within several months. That would be a most welcome (and appreciated) example of pushing it along. However, I have to allow that it is also entirely possible that the matter may not be assigned until sometime later this year (or possibly next year, or perhaps beyond depending on volume) and will then only be processed at a rate of 50-100 pages per month, resulting in a full production taking several years (or more).

This, of course, takes us right back to where we started, and the question I posed earlier: is the FBI willing and able to process my client’s request in such a manner that my client can count on having the documents in hand within the next several months? Or are we back to the original estimate of large track requests taking on average 55 months to process?

I appreciate your time and consideration of the matter, and would like to provide my client with more clarity in this regard

Very truly yours,

Karim

Karim A. Abdulla

**FINNERTY OSTERREICHER & ABDULLA**

70 Niagara Street, Suite 411

Buffalo, New York 14202-3407

Phone: (716) 340 - 2200 x. 225

Fax: (716) 340 - 2300

Mobile: (716) 550 - 1924

[kaa@foalegal.com](mailto:kaa@foalegal.com)

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

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**From:** [FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV) <[FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV)>

**Sent:** Friday, July 7, 2023 1:17 PM

**To:** Karim Abdulla <[kaa@foalegal.com](mailto:kaa@foalegal.com)>; J.Dale Shoemaker <[jdshoemaker@investigativepost.org](mailto:jdshoemaker@investigativepost.org)>

**Cc:** Jim Heaney <[jheaney@investigativepost.org](mailto:jheaney@investigativepost.org)>

**Subject:** RE: FOIA# 1585416/ Western Regional Off-track Betting Corporation

Good afternoon Mr. Abdulla,

We will keep your request as-is and push it along in the large track. When this case gets assigned to a FOIA analyst releases will be made in approximately 500 page increments until all of the responsive material has been released.

Respectfully,

Negotiation Team

Federal Bureau of Investigation

[Fbi.foipa.negotiation@fbi.gov](mailto:Fbi.foipa.negotiation@fbi.gov)

Status Checks: <https://vault.fbi.gov/fdps-1/@@search-fdps> | [foipaquestions@fbi.gov](mailto:foipaquestions@fbi.gov)

For additional information, please visit the [www.fbi.gov/foia](http://www.fbi.gov/foia) website.



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**From:** Karim Abdulla <[kaa@foalegal.com](mailto:kaa@foalegal.com)>  
**Sent:** Friday, July 7, 2023 12:50 PM  
**To:** FBI.FOIPA.NEGOTIATION <[FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV)>; J.Dale Shoemaker <[jdshoemaker@investigativepost.org](mailto:jdshoemaker@investigativepost.org)>  
**Cc:** Jim Heaney <[jheaney@investigativepost.org](mailto:jheaney@investigativepost.org)>  
**Subject:** [EXTERNAL EMAIL] - RE: FOIA# 1585416/ Western Regional Off-track Betting Corporation

Yes, your understanding is correct. We are not presently seeking to narrow the scope of the request. Rather, we would simply like to have the records produced in a timely manner that is consistent with what the courts have required in analogous cases.

Please advise whether the FBI's FOIA review and response team can (and will) accommodate this reasonable request, i.e., production at a rate of between 500 -2500 pages per month (as based on the legal authority previously provided) so that my client can count on having the documents in hand within the next couple of months. As Mr. Shoemaker previously advised, a "rolling" production (i.e., sending out the responsive documents in batches as they are reviewed, as opposed to waiting until all the pages have been reviewed) is acceptable.

Thank you,

Karim

Karim A. Abdulla

**FINNERTY OSTERREICHER & ABDULLA**

70 Niagara Street, Suite 411

Buffalo, New York 14202-3407

Phone: (716) 340 - 2200 x. 225

Fax: (716) 340 - 2300

Mobile: (716) 550 - 1924

[kaa@foalegal.com](mailto:kaa@foalegal.com)

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

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**From:** [FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV) <[FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV)>  
**Sent:** Friday, July 7, 2023 10:12 AM  
**To:** Karim Abdulla <[kaa@foalegal.com](mailto:kaa@foalegal.com)>; J.Dale Shoemaker <[jdshoemaker@investigativepost.org](mailto:jdshoemaker@investigativepost.org)>  
**Cc:** Jim Heaney <[jheaney@investigativepost.org](mailto:jheaney@investigativepost.org)>  
**Subject:** RE: FOIA# 1585416/ Western Regional Off-track Betting Corporation

Good morning Mr. Abdulla,

Thank you for your thoughtful response. We understand your concern with the estimated time it would take to complete your request.

Are we understanding correctly that you do not wish to narrow the scope of your request at this time?

Respectfully,

Negotiation Team  
Federal Bureau of Investigation  
[Fbi.foipa.negotiation@fbi.gov](mailto:Fbi.foipa.negotiation@fbi.gov)

Status Checks: <https://vault.fbi.gov/fdps-1/@@search-fdps> | [foipaquestions@fbi.gov](mailto:foipaquestions@fbi.gov)

For additional information, please visit the [www.fbi.gov/foia](http://www.fbi.gov/foia) website.



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**From:** Karim Abdulla <[kaa@foalegal.com](mailto:kaa@foalegal.com)>  
**Sent:** Thursday, July 6, 2023 5:20 PM  
**To:** FBI.FOIPA.NEGOTIATION <[FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV)>; J.Dale Shoemaker <[jdshoemaker@investigativepost.org](mailto:jdshoemaker@investigativepost.org)>  
**Cc:** Jim Heaney <[jheaney@investigativepost.org](mailto:jheaney@investigativepost.org)>  
**Subject:** [EXTERNAL EMAIL] - RE: FOIA# 1585416/ Western Regional Off-track Betting Corporation

Dear Sir/Madam, and members of the FBI FOIA Negotiation Team,

Please accept this on behalf of my client, J. Dale Shoemaker, individually and in his capacity as reporter for Investigative Post, as our formal position with regard to the FBI's response to Mr. Shoemaker's request for records made pursuant to the Freedom of Information Act ("FOIA"), request no. 1585416.

On my review of the correspondence below, it is clear that Mr. Shoemaker's request was sufficiently clear to permit the FBI to locate responsive records. Specifically, "approximately 2,664 pages potentially responsive" to Mr. Shoemaker's request have been identified. Thus, there does not appear to be any issue with the request itself. Rather, the sole issue appears to revolve around the timing of production. In that regard, you have advised that given the volume of potentially responsive pages, Mr. Shoemaker's FOIA request falls into the category of a "large track request" (i.e., "500 - 4,999 pages") which, you have advised, take, on average, approximately 55 months – or nearly 4.6 years – to complete.

It is our position that 55 months is patently unacceptable as a time line for processing the request and producing responsive records.

Respectfully, this issue – i.e., the reasonableness of the length of time required by the FBI to process a FOIA request, review potentially responsive pages, and produce such records – has been considered by several courts. In this regard, I direct your attention to the District Court's decision in *Seavey v. DOJ*, 266 F.Supp.3d 241 (D.D.C., July 20, 2017)(copy attached). In *Seavey*, the plaintiff-requestor (Nina Seavey), a documentary film-maker and academic, submitted numerous FOIA requests to the FBI seeking historical records concerning about individuals, organizations, events, publications, and file numbers relating to the FBI's role in the anti-war movement in St. Louis in the 1960s and 1970s. Those FOIA requests included one made on March 3, 2015, in which she submitted a particularly large request for records to pertaining to hundreds of individuals and organizations, etc. While the FBI on March 23, 2015, acknowledged Ms. Seavey's request, it did little else to respond other than assigning a tracking number. Frustrated, Ms. Seavey brought suit on August 12, 2015 arguing that the FBI had failed to timely respond to her March 3 FOIA request; in that context, she sought an order seeking the processing and production of 5,000 pages per month until the request was complete. In response, the FBI argued that in accordance with its internal policies and procedures, it should have to process no more than 500 pages per month. (In this regard, it is observed that the projected timeline you have currently provided, i.e., 55 months to process up to 4,999 pages works out to be approximately 90 pages per month; assuming the FBI were to take the full 55 months to process 2,664 pages, that would result in a glacial review pace of 48.4 pages per month, or less than one-tenth of that proposed by the FBI in the *Seavey* matter.) As of May 31, 2017 (i.e., just over two years after the request had been made), the FBI had processed 7,574 pages (i.e., three times the total number of pages at issue in this case). While the FBI at that point identified approximately 151,500 pages of responsive records remaining to be reviewed, the parties were able to narrow that to 102,385 pages. On the proposed processing timelines (i.e., plaintiff's request for 5000 pages per month versus the FBI's request for 500 pages per month), the Court noted that production of the 102,385 pages under the FBI's proposal would take 201 months (as opposed to 21 months under Ms. Seavey's proposal).

Suffice it to say that the Court in *Seavey* did not take kindly to the FBI's position. After going through a thorough analysis of FOIA, the Court concluded that while the statute does not include a set timeline for the actual production of records (as opposed to making a "determination" as to the request, which must be done within 20 working days), FOIA requires that agency records be made "promptly available." See *Seavey*, 266 F.Supp.3d at 244. To be sure, the Court noted, while an agency is entitled to "some additional time to physically redact, duplicate, or assemble for production the documents that it has already gathered and decided to produce," the time frame for such, while context dependent, would "typically be within days or a few weeks of a 'determination,' not months or years." *Seavey*, 266 F.Supp.3d at 244. Since FOIA is silent as to the exact amount of time an agency may have or need to review and produce records, the Court noted it was empowered to use its "equitable powers to require the agency to process documents according to a court-imposed timeline" and that "[i]n devising a remedy the Court is mindful that 'unreasonable delays in disclosing non-exempt documents violate the intent and purpose of the FOIA, and the courts have a duty to prevent [such] abuses.'" *Seavey*, 266 F.Supp.3d at 244, 245, citing *Clemente v. Fed. Bureau of Investigation*, 71 F. Supp. 3d 262, 269 (D.D.C. 2014). In that regard, the FBI in *Seavey* argued (as you have here) that it should be permitted to stick to the status quo and process the request in accordance with its standard policy,

assigning the request to the appropriate queue based on the volume of potentially responsive pages. Specifically, and as noted above, the FBI's policy as stated in *Seavey* was to process "large" requests at 500 pages per month, which it did (using that metric in this case, it is noted, would yield a full production in 5 months, not 55 months as currently proposed.) That, the Court noted, would result in a total processing time of almost 17 years. *Seavey*, 266 F.Supp.3d at 246. The Court rejected the FBI's position, noting there was no evidence to justify the proposed processing time, and that merely reciting the general policy and procedure was patently insufficient to justify a production rate of 500 pages per month. Accordingly, the FBI was ordered to process and produce records at a rate of not less than 2,850 pages per month. *Seavey*, 266 F.Supp.3d at 248.

Other courts have routinely directed the review and production of responsive documents at rates of between 500 – 5,000 pages per month. See, e.g., *ACLU v United States Dept. of Homeland Sec.*, 2021 US Dist LEXIS 227089, at \*4 (SDNY Nov. 19, 2021)(500 pages per month reasonable); *Clemente v. Fed. Bureau of Investigation*, 71 F. Supp. 3d 262, 269 (D.D.C. 2014) (5,000 pages per month reasonable); *Villanueva v United States DOJ*, 2021 US Dist LEXIS 237920, at \*9 (SD Fla Dec. 13, 2021) (ordering review and production of 5,125 pages per month); *Middle E. Forum v United States Dept. of Homeland Sec.*, 297 F Supp 3d 183, 187 (DDC 2018)(500 pages per month); *Project S. v United States Immigration & Customs Enforcement*, 2022 US Dist LEXIS 120162, at \*5 (SDNY July 7, 2022)(requiring ICE to process 500 pages per month). The FBI's proposed processing rate in this case, i.e., an effective rate of less than 50 pages per month, is thus wholly unacceptable. Given the state of the law, we are confident that a court of competent jurisdiction would agree. (In that regard, please be advised that my clients reserve all rights with respect thereto.)

We hope that, in light of the foregoing, the FBI is willing to review and reconsider its previously stated position that it could take up to 55 months to review and produce the requested records. By all accounts – and based on the prevailing legal authority – it is our position that the requested records should be made available within, **at most**, the next several months (if not within the next month).

Please advise.

Very truly yours,

Karim

Karim A. Abdulla

**FINNERTY OSTERREICHER & ABDULLA**

70 Niagara Street, Suite 411

Buffalo, New York 14202-3407

Phone: (716) 340 - 2200 x. 225

Fax: (716) 340 - 2300

Mobile: (716) 550 - 1924

[kaa@foalegal.com](mailto:kaa@foalegal.com)

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

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**From:** Karim Abdulla  
**Sent:** Thursday, July 6, 2023 8:27 AM  
**To:** [FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV); J.Dale Shoemaker <[jdshoemaker@investigativepost.org](mailto:jdshoemaker@investigativepost.org)>  
**Cc:** Jim Heaney <[jheaney@investigativepost.org](mailto:jheaney@investigativepost.org)>  
**Subject:** RE: FOIA# 1585416/ Western Regional Off-track Betting Corporation

Good morning, and thank you for the email.

Yes, I am still interested in negotiating this matter.

I am in the process of preparing our position, which I will be forwarding to you later today or tomorrow. I appreciate your patience.

Very truly yours,

Karim

Karim A. Abdulla

**FINNERTY OSTERREICHER & ABDULLA**

70 Niagara Street, Suite 411

Buffalo, New York 14202-3407

Phone: (716) 340 - 2200 x. 225

Fax: (716) 340 - 2300

Mobile: (716) 550 - 1924

[kaa@foalegal.com](mailto:kaa@foalegal.com)

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

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**From:** [FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV) <[FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV)>  
**Sent:** Thursday, July 6, 2023 7:52 AM  
**To:** J.Dale Shoemaker <[jdshoemaker@investigativepost.org](mailto:jdshoemaker@investigativepost.org)>  
**Cc:** Karim Abdulla <[kaa@foalegal.com](mailto:kaa@foalegal.com)>; Jim Heaney <[jheaney@investigativepost.org](mailto:jheaney@investigativepost.org)>  
**Subject:** Re: FOIA# 1585416/ Western Regional Off-track Betting Corporation



Good morning Mr. Shoemaker,

Please advise if you are still interested in negotiating this case.

Thank you for your time.

Respectfully,

Negotiation Team

Federal Bureau of Investigation

[Fbi.foipa.negotiation@fbi.gov](mailto:Fbi.foipa.negotiation@fbi.gov)

Status Checks: <https://vault.fbi.gov/fdps-1/@@search-fdps> | [foipaquestions@fbi.gov](mailto:foipaquestions@fbi.gov)

For additional information, please visit the [www.fbi.gov/foia](http://www.fbi.gov/foia) website.



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**From:** J.Dale Shoemaker <[jdshoemaker@investigativepost.org](mailto:jdshoemaker@investigativepost.org)>

**Sent:** Thursday, June 29, 2023 3:49 PM

**To:** FBI.FOIPA.NEGOTIATION <[FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV)>

**Cc:** Karim Abdulla <[kaa@foalegal.com](mailto:kaa@foalegal.com)>; Jim Heaney <[jheaney@investigativepost.org](mailto:jheaney@investigativepost.org)>

**Subject:** Re: [EXTERNAL EMAIL] - Re: FOIA# 1585416/ Western Regional Off-track Betting Corporation

Hi there,

Thank you for letting me know about your policy to keep everything in writing. We'll communicate that way moving forward.

To that end, I and my editor, Jim Heaney, feel it's in our best interest to have our attorney, Karim Abdulla, communicate with your team on our behalf from here on. Both Mr. Heaney and Mr. Abdulla are copied on this email. Please let this email serve as me authorizing Mr. Abdulla to negotiate with you on behalf of me and Investigative Post with regard to this matter.

Mr. Abdulla will be following up in the near future to continue this discussion.

All the best,

Dale

On Wed, Jun 28, 2023 at 2:16 PM [FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV) <[FBI.FOIPA.NEGOTIATION@fbi.gov](mailto:FBI.FOIPA.NEGOTIATION@fbi.gov)> wrote:

Good afternoon Mr. Shoemaker,

We communicate by email to have receipt of conversations had. Please let us know if you have any further questions that we can clarify and if you are interested in negotiating this request via email.

Respectfully,

Negotiation Team

Federal Bureau of Investigation

[Fbi.foipa.negotiation@fbi.gov](mailto:Fbi.foipa.negotiation@fbi.gov)

Status Checks: <https://vault.fbi.gov/fdps-1/@@search-fdps> | [foipaquestions@fbi.gov](mailto:foipaquestions@fbi.gov)

For additional information, please visit the [www.fbi.gov/foia](http://www.fbi.gov/foia) website.



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**From:** J.Dale Shoemaker <[jdshoemaker@investigativepost.org](mailto:jdshoemaker@investigativepost.org)>  
**Sent:** Wednesday, June 28, 2023 11:19 AM  
**To:** FBI.FOIPA.NEGOTIATION <[FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV)>  
**Subject:** Re: [EXTERNAL EMAIL] - Re: FOIA# 1585416/ Western Regional Off-track Betting Corporation

Hi there,

Appreciate your response. It would be much easier for me and my fellow reporter to continue these discussions over the phone. Could you please provide a phone number that I could reach you at?

Thank you,

Dale

On Fri, Jun 23, 2023 at 2:13 PM [FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV) <[FBI.FOIPA.NEGOTIATION@fbi.gov](mailto:FBI.FOIPA.NEGOTIATION@fbi.gov)> wrote:

Good afternoon Mr. Shoemaker,

Thank you for the clarification email. A FOIA analyst has yet to review this material so we are limited in what we can say, though we can let you know the material falls between the years of 1982-2023. We can structure a request around a specific time-frame and move it to the track that would best suit you. You are only able to have one case open per subject. If you choose to negotiate this request down, then you are welcome to submit a new request for additional material upon the completion of the current negotiated request. You may submit your request electronically at <https://efoia.fbi.gov> (available 24 hours a day), fax it to 540-868-4997, or mail it to FBI, Attn: FOIPA Request, [200 Constitution Drive, Winchester, VA 22602-4843](https://www.fbi.gov/contact-us/locations/va). Please be sure to include your contact information, to include complete mailing address, on any correspondence.

Please advise how you would like to proceed.

Respectfully,

Negotiation Team

Federal Bureau of Investigation

[Fbi.foipa.negotiation@fbi.gov](mailto:Fbi.foipa.negotiation@fbi.gov)

Status Checks: <https://vault.fbi.gov/fdps-1/@@@search-fdps> | [foipaquestions@fbi.gov](mailto:foipaquestions@fbi.gov)

For additional information, please visit the [www.fbi.gov/foia](https://www.fbi.gov/foia) website.



---

**From:** J.Dale Shoemaker <[jdshoemaker@investigativepost.org](mailto:jdshoemaker@investigativepost.org)>

**Sent:** Friday, June 23, 2023 10:10 AM

**To:** FBI.FOIPA.NEGOTIATION <FBI.FOIPA.NEGOTIATION@FBI.GOV>

**Subject:** Re: [EXTERNAL EMAIL] - Re: FOIA# 1585416/ Western Regional Off-track Betting Corporation

Hi there,

Please accept my sincere apologies! I sent my last email from a hotel with very poor Wifi and it appears things got lost in translation. Here's what I meant to reply:

In my original request, I asked for "all 302s, investigative files, memos, letters and reports related to or containing mention of" a handful of names and entities, including: George Maziarz, Mark Gabriele, Henry Wojtaszek, Richard Bianchi, Mark Onesi, Henry Sloma, Samuel Ferraro, Western Regional Off-Track Betting Corporation, Niagara County Industrial Development Agency (IDA) and Niagara County Center for Economic Development.

In your message to me yesterday, you asked about narrowing the scope of this request, based on the timelines you provided for processing.

This is a question I have: Would it be possible to segment my original request into smaller pieces, and receive records piecemeal as your agency completes processing?

If that is possible, I would like to segment the request in the following way:

- I would like all 302s, investigative files, memos, letters and reports related to or containing mention of Henry Wojtaszek and Mark Gabriele first.

- I would like all 302s, investigative files, memos, letters and reports related to or containing mention of Western Regional Off-Track Betting and the Niagara County Industrial Development Agency second.

- I would like all 302s, investigative files, memos, letters and reports related to or containing mention of Richard Bianchi and Mark Onesi third.

- And I would like all 302s, investigative files, memos, letters and reports related to or containing mention of Henry Sloma and Sam Ferraro last.

Could we segment and process my request in that way? If that is possible, could you provide an estimated number of pages and processing time for Segment #1?

Please let me know. I am at 814-215-0509 if it's easier to discuss this over the phone.

Thank you again,

Dale

On Fri, Jun 23, 2023 at 7:32 AM [FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV) <[FBI.FOIPA.NEGOTIATION@fbi.gov](mailto:FBI.FOIPA.NEGOTIATION@fbi.gov)> wrote:

Good morning Mr. Shoemaker,

Thank you for your email and your potential willingness to negotiate. Can you please elaborate on the names listed in the email below?

Respectfully,

Negotiation Team

Federal Bureau of Investigation

[Fbi.foipa.negotiation@fbi.gov](mailto:Fbi.foipa.negotiation@fbi.gov)

Status Checks: <https://vault.fbi.gov/fdps-1/@@search-fdps> | [foipaquestions@fbi.gov](mailto:foipaquestions@fbi.gov)

For additional information, please visit the [www.fbi.gov/foia](http://www.fbi.gov/foia) website.



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**From:** J.Dale Shoemaker <[jdshoemaker@investigativepost.org](mailto:jdshoemaker@investigativepost.org)>

**Sent:** Thursday, June 22, 2023 4:41 PM

**To:** [FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV)

**Subject:** [EXTERNAL EMAIL] - Re: FOIA# 1585416/ Western Regional Off-track Betting Corporation

Hi there,

Thank you so much for reaching out about this request. It's nice to hear from you.

As you might imagine, as a journalist, I would like to receive these records as soon as possible. So, let me ask a question:

Would it be possible to narrow my request into segments, and process them one at a time?

For example, I would like to receive records related to Mark Gabriele and Henry Wojtaszek first - is it possible to process those first? If so, what is the timeline?

If that is a feasible solution, I'd like the records processed and sent in the following order:

- Mark Gabriele and Henry Wojtaszek
- Richard Bianchi and Mark Onesi
- Western Regional Off-Track Betting and the
- Niagara County Industrial Development Agency
- Henry Sloma and Samuel Ferraro

Again, my goal here is to receive records sooner than later and I'm willing to be flexible to make that happen.

Please let me know your thoughts and what might be a feasible path forward.

Thank you,

Dale

On Thu, Jun 22, 2023 at 10:29 AM [FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV)  
<[FBI.FOIPA.NEGOTIATION@fbi.gov](mailto:FBI.FOIPA.NEGOTIATION@fbi.gov)> wrote:

Good morning Mr. Shoemaker,

We're contacting you in reference to the FOIPA request number included in the subject line of this email. The FBI located approximately 2,664 pages potentially responsive to your request. In your request, you were willing to pay \$50.00 for processing.

Requests are processed in the order in which they are received through our multi-track processing system:

Small track requests (0-50 pages) current average time is approximately 4 months to complete;

Medium track requests (51-500 pages) current average time is approximately 35 months to complete;

Large track requests (501-4,999 pages) current average time is approximately 55 months to complete; and

Extra-large track requests (over 5,000 pages) current average time is approximately 77 months to complete.

The current average time to complete your large track request is at least 55 months. Reducing the scope of your request may accelerate the processing, allow for a timelier receipt of the information you seek, and reduce the duplication costs, if applicable. Would you be willing to consider reducing the scope of your request to place it in a smaller, potentially faster processing track?

Please let us know if this is something you would be interested in further discussing. If you chose to narrow the scope of your request, you will be able to request remaining material via a new FOIPA request submission at the completion of this request, subject to applicable fees.

Respectfully,

Negotiation Team

Federal Bureau of Investigation

[Fbi.foipa.negotiation@fbi.gov](mailto:Fbi.foipa.negotiation@fbi.gov)

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For additional information, please visit the [www.fbi.gov/foia](http://www.fbi.gov/foia) website.

[Redacted signature]

--

**J. Dale Shoemaker**

Reporter

Cell/WhatsApp/Signal: 814-215-0509

Office: 716-831-2626 ext.5

Twitter: @JDale\_Shoemaker

[Redacted signature]

487 Main St., #300, Buffalo, NY 14203

--

**J. Dale Shoemaker**

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[Redacted]

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--

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[Redacted]

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--

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Office: 716-831-2626 ext.5

Twitter: @JDale\_Shoemaker

[Image removed by sender.](#)

487 Main St., #300, Buffalo, NY 14203

--

**J. Dale Shoemaker**

Reporter

Cell/WhatsApp/Signal: 814-215-0509

Office: 716-831-2626 ext.5

Twitter: @JDale\_Shoemaker

# InvestigativePost

487 Main St., #300, Buffalo, NY 14203

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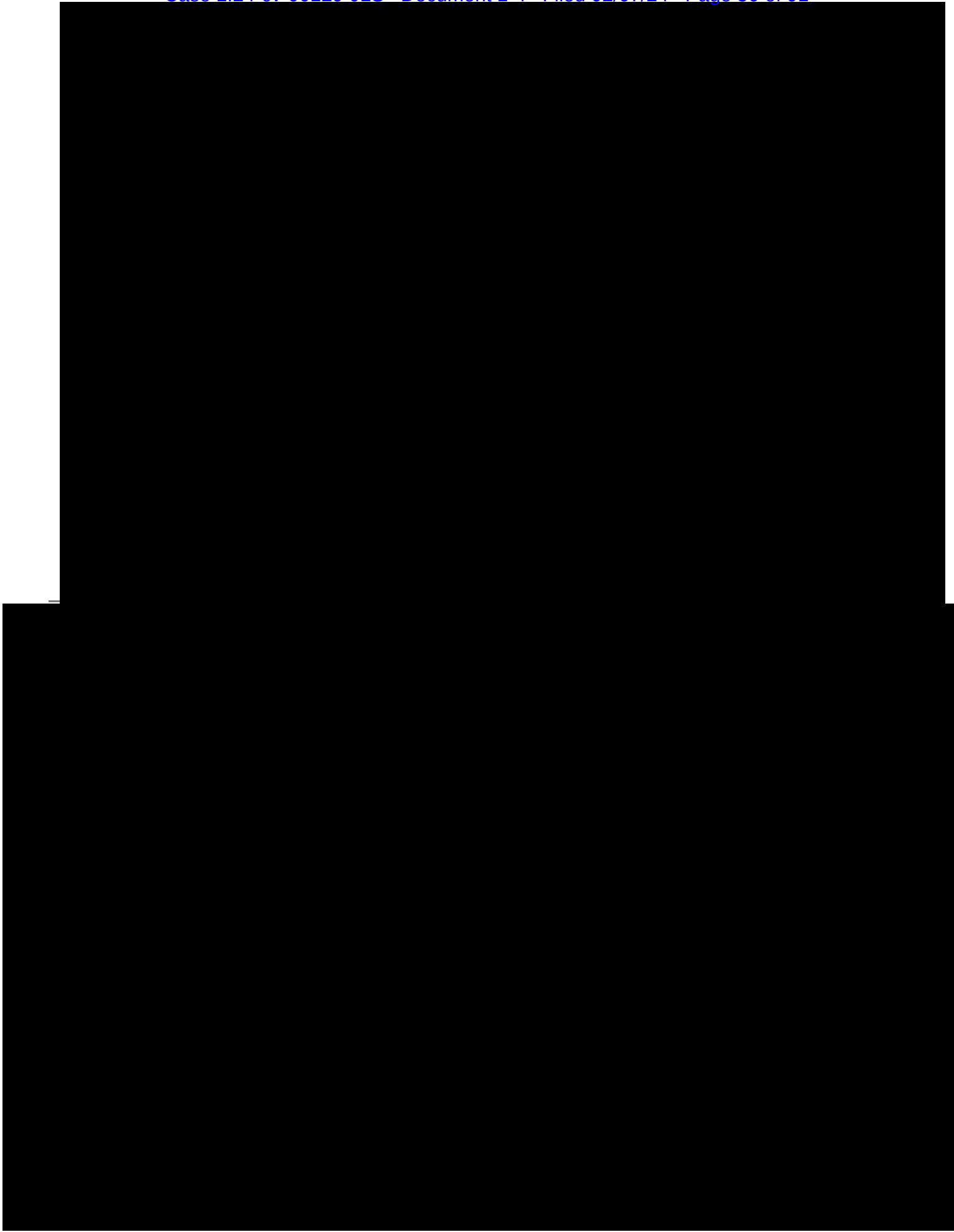
[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]



[Redacted]

[Redacted]

[Redacted]

----- Forwarded message -----

From: [FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV) <FBI.FOIPA.NEGOTIATION@fbi.gov>  
Date: Tue, Jul 18, 2023 at 9:24 AM  
Subject: RE: FOIA# 1585416/ Western Regional Off-track Betting Corporation  
To: Karim Abdulla <[kaa@foalegal.com](mailto:kaa@foalegal.com)>, J.Dale Shoemaker <[jdshoemaker@investigativepost.org](mailto:jdshoemaker@investigativepost.org)>  
Cc: Jim Heaney <[jheaney@investigativepost.org](mailto:jheaney@investigativepost.org)>

Good morning Mr. Abdulla,

Thank you for your email response. Large track requests (501-4,999 pages) current average time is approximately 55 months to complete. We process requests in order of receipt based on the sizes described in my initial email.

Respectfully,

Negotiation Team

Federal Bureau of Investigation

[Fbi.foipa.negotiation@fbi.gov](mailto:Fbi.foipa.negotiation@fbi.gov)

Status Checks: <https://vault.fbi.gov/fdps-1/@@search-fdps> | [foipaquestions@fbi.gov](mailto:foipaquestions@fbi.gov)

For additional information, please visit the [www.fbi.gov/foia](http://www.fbi.gov/foia) website.



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**From:** Karim Abdulla <[kaa@foalegal.com](mailto:kaa@foalegal.com)>  
**Sent:** Friday, July 7, 2023 2:01 PM  
**To:** FBI.FOIPA.NEGOTIATION <FBI.FOIPA.NEGOTIATION@FBI.GOV>; J.Dale Shoemaker <[jdshoemaker@investigativepost.org](mailto:jdshoemaker@investigativepost.org)>  
**Cc:** Jim Heaney <[jheaney@investigativepost.org](mailto:jheaney@investigativepost.org)>  
**Subject:** [EXTERNAL EMAIL] - RE: FOIA# 1585416/ Western Regional Off-track Betting Corporation

Thank you –

I appreciate the update and the commitment to production on a rolling basis and to “push it along” (although, admittedly, I’m not quite sure what that means).

Your message, however, is vague as to two critical issues: (1) how long (approximately) until the case actually gets assigned to a FOIA analyst; and (2) once the case is assigned to the analyst, will the review and production be consistent with what I outlined is our expectation?

From your response, it is hard to tell what my client should expect. For example, based on your email it appears entirely possible that the matter could be assigned to a FOIA analyst next week and, assuming a processing rate of 500-1000 pages per month, a full production could be had within several months. That would be a most welcome (and appreciated) example of pushing it along. However, I have to allow that it is also entirely possible that the matter may not be assigned until sometime later this year (or possibly next year, or perhaps beyond depending on volume) and will then only be processed at a rate of 50-100 pages per month, resulting in a full production taking several years (or more).

This, of course, takes us right back to where we started, and the question I posed earlier: is the FBI willing and able to process my client's request in such a manner that my client can count on having the documents in hand within the next several months? Or are we back to the original estimate of large track requests taking on average 55 months to process?

I appreciate your time and consideration of the matter, and would like to provide my client with more clarity in this regard

Very truly yours,

Karim

Karim A. Abdulla

**FINNERTY OSTERREICHER & ABDULLA**

70 Niagara Street, Suite 411

Buffalo, New York 14202-3407

Phone: (716) 340 - 2200 x. 225

Fax: (716) 340 - 2300

Mobile: (716) 550 - 1924

[kaa@foalegal.com](mailto:kaa@foalegal.com)

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

---

**From:** [FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV) <[FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV)>

**Sent:** Friday, July 7, 2023 1:17 PM

**To:** Karim Abdulla <[kaa@foalegal.com](mailto:kaa@foalegal.com)>; J.Dale Shoemaker <[jdshoemaker@investigativepost.org](mailto:jdshoemaker@investigativepost.org)>

**Cc:** Jim Heaney <[jheaney@investigativepost.org](mailto:jheaney@investigativepost.org)>

**Subject:** RE: FOIA# 1585416/ Western Regional Off-track Betting Corporation

Good afternoon Mr. Abdulla,

We will keep your request as-is and push it along in the large track. When this case gets assigned to a FOIA analyst releases will be made in approximately 500 page increments until all of the responsive material has been released.

Respectfully,

Negotiation Team

Federal Bureau of Investigation

[Fbi.foipa.negotiation@fbi.gov](mailto:Fbi.foipa.negotiation@fbi.gov)

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For additional information, please visit the [www.fbi.gov/foia](http://www.fbi.gov/foia) website.



---

**From:** Karim Abdulla <[kaa@foalegal.com](mailto:kaa@foalegal.com)>

**Sent:** Friday, July 7, 2023 12:50 PM

**To:** FBI.FOIPA.NEGOTIATION <[FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV)>; J.Dale Shoemaker <[jdshoemaker@investigativepost.org](mailto:jdshoemaker@investigativepost.org)>

**Cc:** Jim Heaney <[jheaney@investigativepost.org](mailto:jheaney@investigativepost.org)>

**Subject:** [EXTERNAL EMAIL] - RE: FOIA# 1585416/ Western Regional Off-track Betting Corporation

Yes, your understanding is correct. We are not presently seeking to narrow the scope of the request. Rather, we would simply like to have the records produced in a timely manner that is consistent with what the courts have required in analogous cases.

Please advise whether the FBI's FOIA review and response team can (and will) accommodate this reasonable request, i.e., production at a rate of between 500 -2500 pages per month (as based on the legal authority previously provided) so that my client can count on having the documents in hand within the next couple of months. As Mr. Shoemaker previously advised, a "rolling" production (i.e., sending out the responsive documents

in batches as they are reviewed, as opposed to waiting until all the pages have been reviewed) is acceptable.

Thank you,

Karim

Karim A. Abdulla

**FINNERTY OSTERREICHER & ABDULLA**

70 Niagara Street, Suite 411

Buffalo, New York 14202-3407

Phone: (716) 340 - 2200 x. 225

Fax: (716) 340 - 2300

Mobile: (716) 550 - 1924

[kaa@foalegal.com](mailto:kaa@foalegal.com)

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

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**From:** [FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV) <[FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV)>

**Sent:** Friday, July 7, 2023 10:12 AM

**To:** Karim Abdulla <[kaa@foalegal.com](mailto:kaa@foalegal.com)>; J.Dale Shoemaker <[jdshoemaker@investigativepost.org](mailto:jdshoemaker@investigativepost.org)>

**Cc:** Jim Heaney <[jheaney@investigativepost.org](mailto:jheaney@investigativepost.org)>

**Subject:** RE: FOIA# 1585416/ Western Regional Off-track Betting Corporation

Good morning Mr. Abdulla,

Thank you for your thoughtful response. We understand your concern with the estimated time it would take to complete your request.

Are we understanding correctly that you do not wish to narrow the scope of your request at this time?

Respectfully,

Negotiation Team

Federal Bureau of Investigation

[Fbi.foipa.negotiation@fbi.gov](mailto:Fbi.foipa.negotiation@fbi.gov)

Status Checks: [https://vault.fbi.gov/fdps-1/@\\_@search-fdps](https://vault.fbi.gov/fdps-1/@_@search-fdps) | [foipaquestions@fbi.gov](mailto:foipaquestions@fbi.gov)

For additional information, please visit the [www.fbi.gov/foia](http://www.fbi.gov/foia) website.



---

**From:** Karim Abdulla <[kaa@foalegal.com](mailto:kaa@foalegal.com)>  
**Sent:** Thursday, July 6, 2023 5:20 PM  
**To:** FBI.FOIPA.NEGOTIATION <[FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV)>; J.Dale Shoemaker <[jdshoemaker@investigativepost.org](mailto:jdshoemaker@investigativepost.org)>  
**Cc:** Jim Heaney <[jheaney@investigativepost.org](mailto:jheaney@investigativepost.org)>  
**Subject:** [EXTERNAL EMAIL] - RE: FOIA# 1585416/ Western Regional Off-track Betting Corporation

Dear Sir/Madam, and members of the FBI FOIA Negotiation Team,

Please accept this on behalf of my client, J. Dale Shoemaker, individually and in his capacity as reporter for Investigative Post, as our formal position with regard to the FBI's response to Mr. Shoemaker's request for records made pursuant to the Freedom of Information Act ("FOIA"), request no. 1585416.

On my review of the correspondence below, it is clear that Mr. Shoemaker's request was sufficiently clear to permit the FBI to locate responsive records. Specifically, "approximately 2,664 pages potentially responsive" to Mr. Shoemaker's request have been identified. Thus, there does not appear to be any issue with the request itself. Rather, the sole issue appears to revolve around the timing of production. In that regard, you have advised that given the volume of potentially responsive pages, Mr. Shoemaker's FOIA request falls into the category of a "large track request" (i.e., "500 - 4,999 pages") which, you have advised, take, on average, approximately 55 months – or nearly 4.6 years – to complete.

It is our position that 55 months is patently unacceptable as a time line for processing the request and producing responsive records.

Respectfully, this issue – i.e., the reasonableness of the length of time required by the FBI to process a FOIA request, review potentially responsive pages, and produce such records – has been considered by several courts. In this regard, I direct your attention to the District Court's decision in *Seavey v. DOJ*, 266 F.Supp.3d 241 (D.D.C., July 20, 2017)(copy attached). In *Seavey*, the plaintiff-requestor (Nina Seavey), a documentary film-maker and academic, submitted numerous FOIA requests to the FBI seeking historical records concerning about individuals, organizations, events, publications, and file numbers relating to the FBI's role in the anti-war movement in St. Louis in the 1960s and 1970s. Those FOIA requests included one made on March 3, 2015, in which she submitted a particularly large request for records pertaining to hundreds of individuals and organizations, etc. While the FBI



on March 23, 2015, acknowledged Ms. Seavey's request, it did little else to respond other than assigning a tracking number. Frustrated, Ms. Seavey brought suit on August 12, 2015 arguing that the FBI had failed to timely respond to her March 3 FOIA request; in that context, she sought an order seeking the processing and production of 5,000 pages per month until the request was complete. In response, the FBI argued that in accordance with its internal policies and procedures, it should have to process no more than 500 pages per month. (In this regard, it is observed that the projected timeline you have currently provided, i.e., 55 months to process up to 4,999 pages works out to be approximately 90 pages per month; assuming the FBI were to take the full 55 months to process 2,664 pages, that would result in a glacial review pace of 48.4 pages per month, or less than one-tenth of that proposed by the FBI in the *Seavey* matter.) As of May 31, 2017 (i.e., just over two years after the request had been made), the FBI had processed 7,574 pages (i.e., three times the total number of pages at issue in this case). While the FBI at that point identified approximately 151,500 pages of responsive records remaining to be reviewed, the parties were able to narrow that to 102,385 pages. On the proposed processing timelines (i.e., plaintiff's request for 5000 pages per month versus the FBI's request for 500 pages per month), the Court noted that production of the 102,385 pages under the FBI's proposal would take 201 months (as opposed to 21 months under Ms. Seavey's proposal).

Suffice it to say that the Court in *Seavey* did not take kindly to the FBI's position. After going through a thorough analysis of FOIA, the Court concluded that while the statute does not include a set timeline for the actual production of records (as opposed to making a "determination" as to the request, which must be done within 20 working days), FOIA requires that agency records be made "promptly available." See *Seavey*, 266 F.Supp.3d at 244. To be sure, the Court noted, while an agency is entitled to "some additional time to physically redact, duplicate, or assemble for production the documents that it has already gathered and decided to produce," the time frame for such, while context dependent, would "typically be within days or a few weeks of a 'determination,' not months or years." *Seavey*, 266 F.Supp.3d at 244. Since FOIA is silent as to the exact amount of time an agency may have or need to review and produce records, the Court noted it was empowered to use its "equitable powers to require the agency to process documents according to a court-imposed timeline" and that "[i]n devising a remedy the Court is mindful that 'unreasonable delays in disclosing non-exempt documents violate the intent and purpose of the FOIA, and the courts have a duty to prevent [such] abuses.'" *Seavey*, 266 F.Supp.3d at 244, 245, citing *Clemente v. Fed. Bureau of Investigation*, 71 F. Supp. 3d 262, 269 (D.D.C. 2014). In that regard, the FBI in *Seavey* argued (as you have here) that it should be permitted to stick to the status quo and process the request in accordance with its standard policy, assigning the request to the appropriate queue based on the volume of potentially responsive pages. Specifically, and as noted above, the FBI's policy as stated in *Seavey* was to process "large" requests at 500 pages per month, which it did (using that metric in this case, it is noted, would yield a full production in 5 months, not 55 months as currently proposed.) That, the Court noted, would result in a total processing time of almost 17 years. *Seavey*, 266 F.Supp.3d at 246. The Court rejected the FBI's position, noting there was no evidence to justify the proposed processing time, and that merely reciting the general policy and procedure was patently insufficient to justify a production rate of 500 pages per month. Accordingly, the FBI was ordered to process and produce records at a rate of not less than 2,850 pages per month. *Seavey*, 266 F.Supp.3d at 248.

Other courts have routinely directed the review and production of responsive documents at rates of between 500 – 5,000 pages per month. See, e.g., *ACLU v United States Dept. of Homeland Sec.*, 2021 US Dist LEXIS 227089, at \*4 (SDNY Nov. 19, 2021)(500 pages per month reasonable)); *Clemente v. Fed. Bureau of Investigation*, 71 F. Supp. 3d 262, 269 (D.D.C. 2014) (5,000 pages per month reasonable); *Villanueva v United States DOJ*, 2021 US Dist LEXIS 237920, at \*9 (SD Fla Dec. 13, 2021) (ordering review and production of 5,125 pages per month); *Middle E. Forum v United States Dept. of Homeland Sec.*, 297 F Supp 3d 183, 187 (DDC 2018)(500 pages per month)); *Project S. v United States Immigration & Customs Enforcement*, 2022 US Dist LEXIS 120162, at \*5 (SDNY July 7, 2022)(requiring ICE to process 500 pages per month). The FBI's proposed processing rate in this case, i.e., an effective rate of less than 50 pages per month, is thus wholly unacceptable. Given the state of the law, we are confident that a court of competent jurisdiction would agree. (In that regard, please be advised that my clients reserve all rights with respect thereto.)

We hope that, in light of the foregoing, the FBI is willing to review and reconsider its previously stated position that it could take up to 55 months to review and produce the requested records. By all accounts – and based on the prevailing legal authority – it is our position that the requested records should be made available within, **at most**,

the next several months (if not within the next month).

Please advise.

Very truly yours,

Karim

Karim A. Abdulla

**FINNERTY OSTERREICHER & ABDULLA**

70 Niagara Street, Suite 411

Buffalo, New York 14202-3407

Phone: (716) 340 - 2200 x. 225

Fax: (716) 340 - 2300

Mobile: (716) 550 - 1924

[kaa@foalegal.com](mailto:kaa@foalegal.com)

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

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**From:** Karim Abdulla

**Sent:** Thursday, July 6, 2023 8:27 AM

**To:** [FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV); J.Dale Shoemaker <[jdshoemaker@investigativepost.org](mailto:jdshoemaker@investigativepost.org)>

**Cc:** Jim Heaney <[jheaney@investigativepost.org](mailto:jheaney@investigativepost.org)>

**Subject:** RE: FOIA# 1585416/ Western Regional Off-track Betting Corporation

Good morning, and thank you for the email.

Yes, I am still interested in negotiating this matter.

I am in the process of preparing our position, which I will be forwarding to you later today or tomorrow. I appreciate your patience.

Very truly yours,

Karim

Karim A. Abdulla

**FINNERTY OSTERREICHER & ABDULLA**

70 Niagara Street, Suite 411

Buffalo, New York 14202-3407

Phone: (716) 340 - 2200 x. 225

Fax: (716) 340 - 2300

Mobile: (716) 550 - 1924

[kaa@foalegal.com](mailto:kaa@foalegal.com)

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

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**From:** [FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV) <[FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV)>  
**Sent:** Thursday, July 6, 2023 7:52 AM  
**To:** J.Dale Shoemaker <[jdshoemaker@investigativepost.org](mailto:jdshoemaker@investigativepost.org)>  
**Cc:** Karim Abdulla <[kaa@foalegal.com](mailto:kaa@foalegal.com)>; Jim Heaney <[jheaney@investigativepost.org](mailto:jheaney@investigativepost.org)>  
**Subject:** Re: FOIA# 1585416/ Western Regional Off-track Betting Corporation

Good morning Mr. Shoemaker,

Please advise if you are still interested in negotiating this case.

Thank you for your time.

Respectfully,

Negotiation Team

Federal Bureau of Investigation

[Fbi.foipa.negotiation@fbi.gov](mailto:Fbi.foipa.negotiation@fbi.gov)

Status Checks: <https://vault.fbi.gov/fdps-1/@@search-fdps> | [foipaquestions@fbi.gov](mailto:foipaquestions@fbi.gov)

For additional information, please visit the [www.fbi.gov/foia](http://www.fbi.gov/foia) website.



---

**From:** J.Dale Shoemaker <[jdshoemaker@investigativepost.org](mailto:jdshoemaker@investigativepost.org)>  
**Sent:** Thursday, June 29, 2023 3:49 PM  
**To:** FBI.FOIPA.NEGOTIATION <[FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV)>  
**Cc:** Karim Abdulla <[kaa@foalegal.com](mailto:kaa@foalegal.com)>; Jim Heaney <[jheaney@investigativepost.org](mailto:jheaney@investigativepost.org)>  
**Subject:** Re: [EXTERNAL EMAIL] - Re: FOIA# 1585416/ Western Regional Off-track Betting Corporation

Hi there,

Thank you for letting me know about your policy to keep everything in writing. We'll communicate that way moving forward.

To that end, I and my editor, Jim Heaney, feel it's in our best interest to have our attorney, Karim Abdulla, communicate with your team on our behalf from here on. Both Mr. Heaney and Mr. Abdulla are copied on this email. Please let this email serve as me authorizing Mr. Abdulla to negotiate with you on behalf of me and Investigative Post with regard to this matter.

Mr. Abdulla will be following up in the near future to continue this discussion.

All the best,

Dale

On Wed, Jun 28, 2023 at 2:16 PM [FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV) <[FBI.FOIPA.NEGOTIATION@fbi.gov](mailto:FBI.FOIPA.NEGOTIATION@fbi.gov)> wrote:

Good afternoon Mr. Shoemaker,

We communicate by email to have receipt of conversations had. Please let us know if you have any further questions that we can clarify and if you are interested in negotiating this request via email.

Respectfully,

Negotiation Team

Federal Bureau of Investigation

[Fbi.foipa.negotiation@fbi.gov](mailto:Fbi.foipa.negotiation@fbi.gov)

Status Checks: <https://vault.fbi.gov/fdps-1/@@@search-fdps> | [foipaquestions@fbi.gov](mailto:foipaquestions@fbi.gov)

For additional information, please visit the [www.fbi.gov/foia](http://www.fbi.gov/foia) website.



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**From:** J.Dale Shoemaker <[jdshoemaker@investigativepost.org](mailto:jdshoemaker@investigativepost.org)>  
**Sent:** Wednesday, June 28, 2023 11:19 AM  
**To:** FBI.FOIPA.NEGOTIATION <[FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV)>  
**Subject:** Re: [EXTERNAL EMAIL] - Re: FOIA# 1585416/ Western Regional Off-track Betting Corporation

Hi there,

Appreciate your response. It would be much easier for me and my fellow reporter to continue these discussions over the phone. Could you please provide a phone number that I could reach you at?

Thank you,

Dale

On Fri, Jun 23, 2023 at 2:13 PM [FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV) <[FBI.FOIPA.NEGOTIATION@fbi.gov](mailto:FBI.FOIPA.NEGOTIATION@fbi.gov)> wrote:

Good afternoon Mr. Shoemaker,

Thank you for the clarification email. A FOIA analyst has yet to review this material so we are limited in what we can say, though we can let you know the material falls between the years of 1982-2023. We can structure a request around a specific time-frame and move it to the track that would best suit you. You are only able to have one case open per subject. If you choose to negotiate this request down, then you are welcome to submit a new request for additional material upon the completion of the current negotiated request. You may submit your request electronically at <https://efoia.fbi.gov> (available 24 hours a day), fax it to 540-868-4997, or mail it to FBI, Attn: FOIPA Request, [200 Constitution Drive, Winchester, VA 22602-4843](https://www.fbi.gov/contact-us/locations/va). Please be sure to include your contact information, to include complete mailing address, on any correspondence.

Please advise how you would like to proceed.

Respectfully,

Negotiation Team

Federal Bureau of Investigation

[Fbi.foipa.negotiation@fbi.gov](mailto:Fbi.foipa.negotiation@fbi.gov)

Status Checks: [https://vault.fbi.gov/fdps-1/@\\_@search-fdps](https://vault.fbi.gov/fdps-1/@_@search-fdps) | [foipaquestions@fbi.gov](mailto:foipaquestions@fbi.gov)

For additional information, please visit the [www.fbi.gov/foia](http://www.fbi.gov/foia) website.



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**From:** J.Dale Shoemaker <[jdshoemaker@investigativepost.org](mailto:jdshoemaker@investigativepost.org)>

**Sent:** Friday, June 23, 2023 10:10 AM

**To:** FBI.FOIPA.NEGOTIATION <[FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV)>

**Subject:** Re: [EXTERNAL EMAIL] - Re: FOIA# 1585416/ Western Regional Off-track Betting Corporation

Hi there,

Please accept my sincere apologies! I sent my last email from a hotel with very poor Wifi and it appears things got lost in translation. Here's what I meant to reply:

In my original request, I asked for "all 302s, investigative files, memos, letters and reports related to or containing mention of" a handful of names and entities, including: George Maziarz, Mark Gabriele, Henry Wojtaszek, Richard Bianchi, Mark Onesi, Henry Sloma, Samuel Ferraro, Western Regional Off-Track Betting Corporation, Niagara County Industrial Development Agency (IDA) and Niagara County Center for Economic Development.

In your message to me yesterday, you asked about narrowing the scope of this request, based on the timelines you provided for processing.

This is a question I have: Would it be possible to segment my original request into smaller pieces, and receive records piecemeal as your agency completes processing?

If that is possible, I would like to segment the request in the following way:

- I would like all 302s, investigative files, memos, letters and reports related to or containing mention of Henry Wojtaszek and Mark Gabriele first.

- I would like all 302s, investigative files, memos, letters and reports related to or containing mention of Western Regional Off-Track Betting and the Niagara County Industrial Development Agency second.

- I would like all 302s, investigative files, memos, letters and reports related to or containing mention of Richard Bianchi and Mark Onesi third.

- And I would like all 302s, investigative files, memos, letters and reports related to or containing mention of Henry Sloma and Sam Ferraro last.

Could we segment and process my request in that way? If that is possible, could you provide an estimated number of pages and processing time for Segment #1?

Please let me know. I am at 814-215-0509 if it's easier to discuss this over the phone.

Thank you again,

Dale

On Fri, Jun 23, 2023 at 7:32 AM [FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV) <[FBI.FOIPA.NEGOTIATION@fbi.gov](mailto:FBI.FOIPA.NEGOTIATION@fbi.gov)> wrote:

Good morning Mr. Shoemaker,

Thank you for your email and your potential willingness to negotiate. Can you please elaborate on the names listed in the email below?

Respectfully,

Negotiation Team

Federal Bureau of Investigation

[Fbi.foipa.negotiation@fbi.gov](mailto:Fbi.foipa.negotiation@fbi.gov)

Status Checks: <https://vault.fbi.gov/fdps-1/@@search-fdps> | [foipaquestions@fbi.gov](mailto:foipaquestions@fbi.gov)

For additional information, please visit the [www.fbi.gov/foia](http://www.fbi.gov/foia) website.



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**From:** J.Dale Shoemaker <[jdshoemaker@investigativepost.org](mailto:jdshoemaker@investigativepost.org)>  
**Sent:** Thursday, June 22, 2023 4:41 PM  
**To:** FBI.FOIPA.NEGOTIATION <[FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV)>  
**Subject:** [EXTERNAL EMAIL] - Re: FOIA# 1585416/ Western Regional Off-track Betting Corporation

Hi there,

Thank you so much for reaching out about this request. It's nice to hear from you.

As you might imagine, as a journalist, I would like to receive these records as soon as possible. So, let me ask a question:

Would it be possible to narrow my request into segments, and process them one at a time?

For example, I would like to receive records related to Mark Gabriele and Henry Wojtaszek first - is it possible to process those first? If so, what is the timeline?

If that is a feasible solution, I'd like the records processed and sent in the following order:

- Mark Gabriele and Henry Wojtaszek
- Richard Bianchi and Mark Onesi
- Western Regional Off-Track Betting and the
- Niagara County Industrial Development Agency
- Henry Sloma and Samuel Ferraro

Again, my goal here is to receive records sooner than later and I'm willing to be flexible to make that happen.



Please let me know your thoughts and what might be a feasible path forward.

Thank you,

Dale

On Thu, Jun 22, 2023 at 10:29 AM [FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV)  
<[FBI.FOIPA.NEGOTIATION@fbi.gov](mailto:FBI.FOIPA.NEGOTIATION@fbi.gov)> wrote:

Good morning Mr. Shoemaker,

We're contacting you in reference to the FOIPA request number included in the subject line of this email. The FBI located approximately 2,664 pages potentially responsive to your request. In your request, you were willing to pay \$50.00 for processing.

Requests are processed in the order in which they are received through our multi-track processing system:

Small track requests (0-50 pages) current average time is approximately 4 months to complete;

Medium track requests (51-500 pages) current average time is approximately 35 months to complete;

Large track requests (501-4,999 pages) current average time is approximately 55 months to complete; and

Extra-large track requests (over 5,000 pages) current average time is approximately 77 months to complete.

The current average time to complete your large track request is at least 55 months. Reducing the scope of your request may accelerate the processing, allow for a timelier receipt of the information you seek, and reduce the duplication costs, if applicable. Would you be willing to consider reducing the scope of your request to place it in a smaller, potentially faster processing track?

Please let us know if this is something you would be interested in further discussing. If you chose to narrow the scope of your request, you will be able to request remaining material via a new FOIPA request submission at the completion of this request, subject to applicable fees.

Respectfully,

Negotiation Team

Federal Bureau of Investigation

[Fbi.foipa.negotiation@fbi.gov](mailto:Fbi.foipa.negotiation@fbi.gov)

Status Checks: <https://vault.fbi.gov/fdps-1/@@search-fdps> | [foipaquestions@fbi.gov](mailto:foipaquestions@fbi.gov)

For additional information, please visit the [www.fbi.gov/foia](http://www.fbi.gov/foia) website.

[Redacted]

--

**J. Dale Shoemaker**

Reporter

Cell/WhatsApp/Signal: 814-215-0509

Office: 716-831-2626 ext.5

Twitter: @JDale\_Shoemaker

[Redacted]

487 Main St., #300, Buffalo, NY 14203

--

**J. Dale Shoemaker**

Reporter

Cell/WhatsApp/Signal: 814-215-0509

Office: 716-831-2626 ext.5

Twitter: @JDale\_Shoemaker

[Redacted]

487 Main St., #300, Buffalo, NY 14203

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[Redacted]

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[Redacted]

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Office: 716-831-2626 ext.5

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[Redacted]

487 Main St., #300, Buffalo, NY 14203

--

**J. Dale Shoemaker**

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Cell/WhatsApp/Signal: 814-215-0509

Office: 716-831-2626 ext.5

Twitter: @JDale\_Shoemaker

# InvestigativePost

487 Main St., #300, Buffalo, NY 14203

--

**J. Dale Shoemaker**

Reporter

Cell/WhatsApp/Signal: 814-215-0509

Office: 716-831-2626 ext.5

Twitter: @JDale\_Shoemaker

# InvestigativePost

487 Main St., #300, Buffalo, NY 14203

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**J.Dale Shoemaker** <jdshoemaker@investigativepost.org>

Wed, Jul 19, 2023 at 3:03 PM

To: Karim Abdulla <kaa@foalegal.com>

Cc: Jim Heaney <jheaney@investigativepost.org>, Geoff Kelly <gkelly@investigativepost.org>

Great. How's 2PM Friday? That should be good for me, Jim and Geoff.

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Good morning Mr. Shoemaker,

We're contacting you in reference to the FOIPA request number included in the subject line of this email. The FBI located approximately 2,664 pages potentially responsive to your request. In your request, you were willing to pay \$50.00 for processing.

Requests are processed in the order in which they are received through our multi-track processing system:

Small track requests (0-50 pages) current average time is approximately 4 months to complete;

Medium track requests (51-500 pages) current average time is approximately 35 months to complete;

Large track requests (501-4,999 pages) current average time is approximately 55 months to complete; and

Extra-large track requests (over 5,000 pages) current average time is approximately 77 months to complete.

The current average time to complete your large track request is at least 55 months. Reducing the scope of your request may accelerate the processing, allow for a timelier receipt of the information you seek, and reduce the duplication costs, if applicable. Would you be willing to consider reducing the scope of your request to place it in a smaller, potentially faster processing track?

Please let us know if this is something you would be interested in further discussing. If you chose to narrow the scope of your request, you will be able to request remaining material via a new FOIPA request submission at the completion of this request, subject to applicable fees.

Respectfully,

Negotiation Team  
Federal Bureau of Investigation  
[Fbi.foipa.negotiation@fbi.gov](mailto:Fbi.foipa.negotiation@fbi.gov)

Status Checks: <https://vault.fbi.gov/fdps-1/@@search-fdps> | [foipaquestions@fbi.gov](mailto:foipaquestions@fbi.gov)

For additional information, please visit the [www.fbi.gov/foia](http://www.fbi.gov/foia) website.

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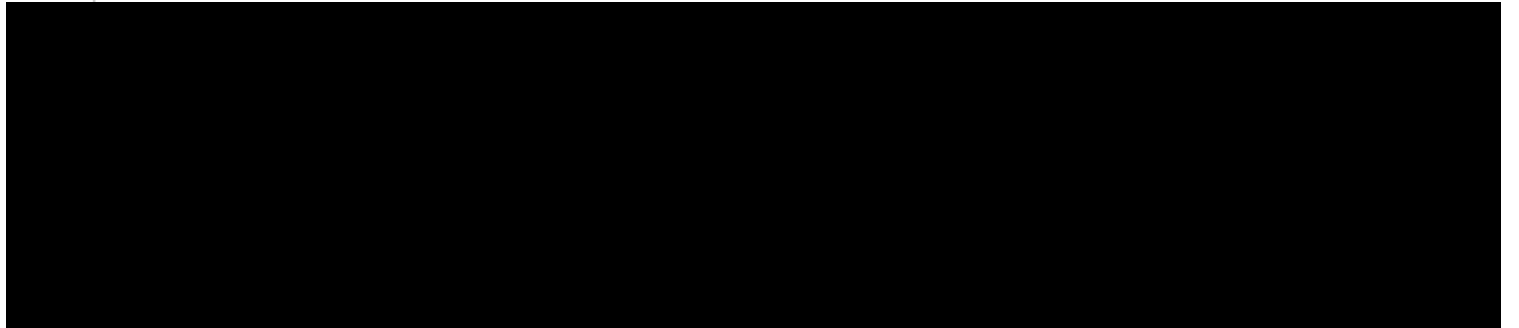
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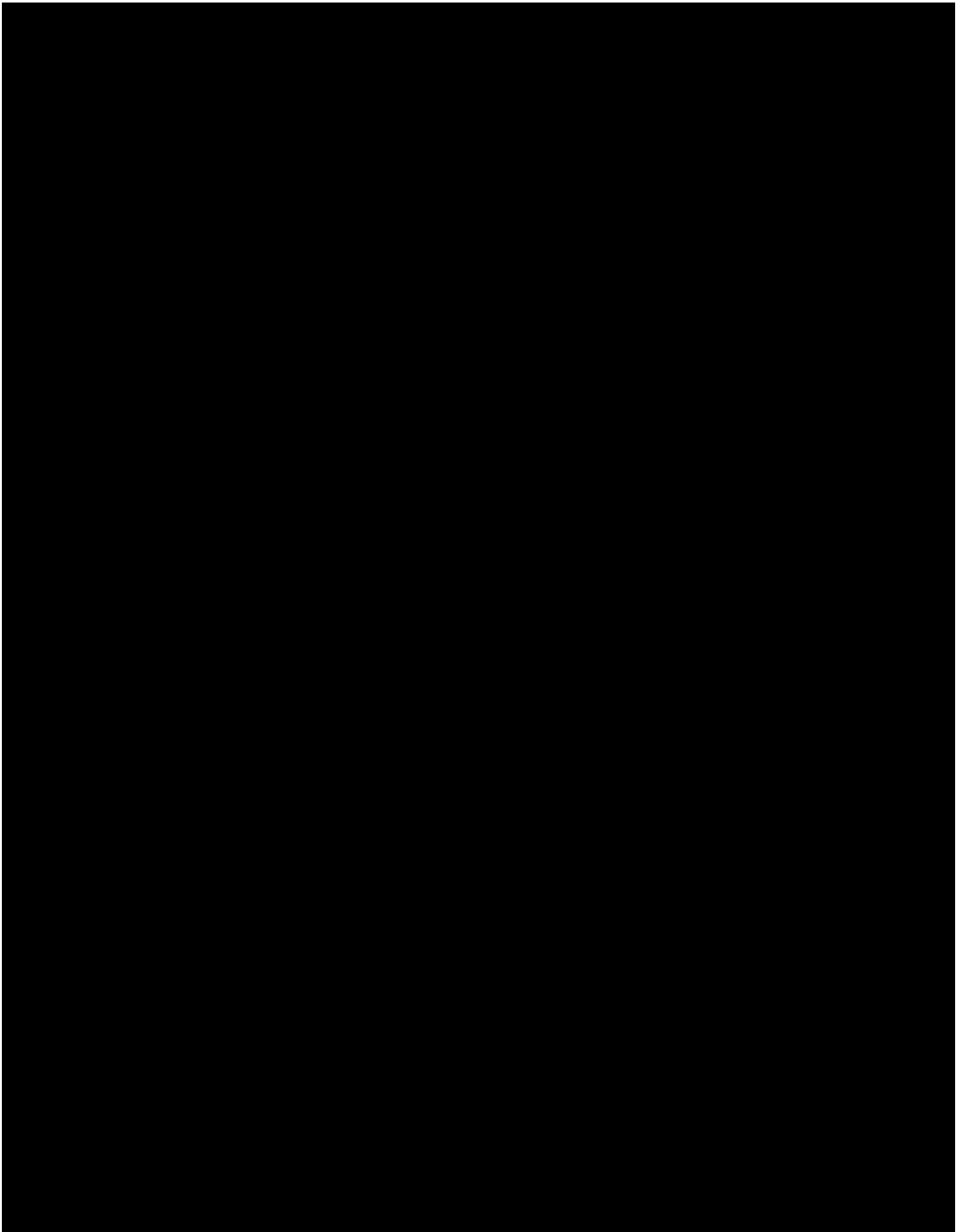
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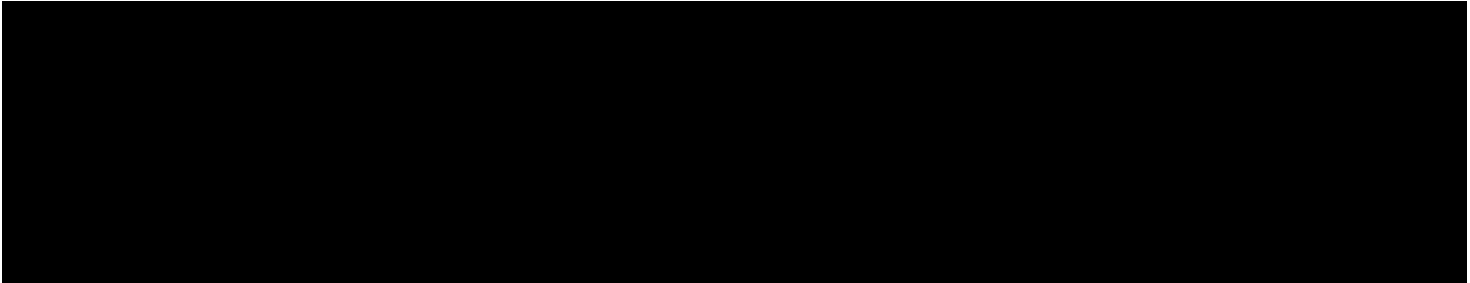
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----- Forwarded message -----

From: [FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV) <FBI.FOIPA.NEGOTIATION@fbi.gov>  
Date: Tue, Jul 18, 2023 at 9:24 AM  
Subject: RE: FOIA# 1585416/ Western Regional Off-track Betting Corporation  
To: Karim Abdulla <[kaa@foalegal.com](mailto:kaa@foalegal.com)>, J.Dale Shoemaker <[jdshoemaker@investigativepost.org](mailto:jdshoemaker@investigativepost.org)>  
Cc: Jim Heaney <[jheaney@investigativepost.org](mailto:jheaney@investigativepost.org)>

Good morning Mr. Abdulla,

Thank you for your email response. Large track requests (501-4,999 pages) current average time is approximately 55 months to complete. We process requests in order of receipt based on the sizes described in my initial email.

Respectfully,

Negotiation Team  
Federal Bureau of Investigation  
[Fbi.foipa.negotiation@fbi.gov](mailto:Fbi.foipa.negotiation@fbi.gov)

Status Checks: [https://vault.fbi.gov/fdps-1/@ @search-fdps](https://vault.fbi.gov/fdps-1/@@search-fdps) | [foipaquestions@fbi.gov](mailto:foipaquestions@fbi.gov)

For additional information, please visit the [www.fbi.gov/foia](http://www.fbi.gov/foia) website.



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**From:** Karim Abdulla <[kaa@foalegal.com](mailto:kaa@foalegal.com)>  
**Sent:** Friday, July 7, 2023 2:01 PM  
**To:** FBI.FOIPA.NEGOTIATION <FBI.FOIPA.NEGOTIATION@FBI.GOV>; J.Dale Shoemaker <[jdshoemaker@investigativepost.org](mailto:jdshoemaker@investigativepost.org)>  
**Cc:** Jim Heaney <[jheaney@investigativepost.org](mailto:jheaney@investigativepost.org)>  
**Subject:** [EXTERNAL EMAIL] - RE: FOIA# 1585416/ Western Regional Off-track Betting Corporation



Thank you –

I appreciate the update and the commitment to production on a rolling basis and to “push it along” (although, admittedly, I’m not quite sure what that means).

Your message, however, is vague as to two critical issues: (1) how long (approximately) until the case actually gets assigned to a FOIA analyst; and (2) once the case is assigned to the analyst, will the review and production be consistent with what I outlined is our expectation?

From your response, it is hard to tell what my client should expect. For example, based on your email it appears entirely possible that the matter could be assigned to a FOIA analyst next week and, assuming a processing rate of 500-1000 pages per month, a full production could be had within several months. That would be a most welcome (and appreciated) example of pushing it along. However, I have to allow that it is also entirely possible that the matter may not be assigned until sometime later this year (or possibly next year, or perhaps beyond depending on volume) and will then only be processed at a rate of 50-100 pages per month, resulting in a full production taking several years (or more).

This, of course, takes us right back to where we started, and the question I posed earlier: is the FBI willing and able to process my client’s request in such a manner that my client can count on having the documents in hand within the next several months? Or are we back to the original estimate of large track requests taking on average 55 months to process?

I appreciate your time and consideration of the matter, and would like to provide my client with more clarity in this regard

Very truly yours,

Karim

Karim A. Abdulla

**FINNERTY OSTERREICHER & ABDULLA**

70 Niagara Street, Suite 411

Buffalo, New York 14202-3407

Phone: (716) 340 - 2200 x. 225

Fax: (716) 340 - 2300

Mobile: (716) 550 - 1924

[kaa@foalegal.com](mailto:kaa@foalegal.com)

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

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**From:** FBI.FOIPA.NEGOTIATION@FBI.GOV <FBI.FOIPA.NEGOTIATION@FBI.GOV>  
**Sent:** Friday, July 7, 2023 1:17 PM  
**To:** Karim Abdulla <kaa@foalegal.com>; J.Dale Shoemaker <jdshoemaker@investigativepost.org>  
**Cc:** Jim Heaney <jheaney@investigativepost.org>  
**Subject:** RE: FOIA# 1585416/ Western Regional Off-track Betting Corporation

Good afternoon Mr. Abdulla,

We will keep your request as-is and push it along in the large track. When this case gets assigned to a FOIA analyst releases will be made in approximately 500 page increments until all of the responsive material has been released.

Respectfully,

Negotiation Team

Federal Bureau of Investigation

[Fbi.foipa.negotiation@fbi.gov](mailto:Fbi.foipa.negotiation@fbi.gov)

Status Checks: <https://vault.fbi.gov/fdps-1/@@search-fdps> | [foipaquestions@fbi.gov](mailto:foipaquestions@fbi.gov)

For additional information, please visit the [www.fbi.gov/foia](http://www.fbi.gov/foia) website.



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**From:** Karim Abdulla <kaa@foalegal.com>  
**Sent:** Friday, July 7, 2023 12:50 PM  
**To:** FBI.FOIPA.NEGOTIATION <FBI.FOIPA.NEGOTIATION@FBI.GOV>; J.Dale Shoemaker <jdshoemaker@investigativepost.org>  
**Cc:** Jim Heaney <jheaney@investigativepost.org>  
**Subject:** [EXTERNAL EMAIL] - RE: FOIA# 1585416/ Western Regional Off-track Betting Corporation

Yes, your understanding is correct. We are not presently seeking to narrow the scope of the request. Rather, we would simply like to have the records produced in a timely manner that is consistent with what the courts

have required in analogous cases.

Please advise whether the FBI's FOIA review and response team can (and will) accommodate this reasonable request, i.e., production at a rate of between 500 -2500 pages per month (as based on the legal authority previously provided) so that my client can count on having the documents in hand within the next couple of months. As Mr. Shoemaker previously advised, a "rolling" production (i.e., sending out the responsive documents in batches as they are reviewed, as opposed to waiting until all the pages have been reviewed) is acceptable.

Thank you,

Karim

Karim A. Abdulla

**FINNERTY OSTERREICHER & ABDULLA**

70 Niagara Street, Suite 411

Buffalo, New York 14202-3407

Phone: (716) 340 - 2200 x. 225

Fax: (716) 340 - 2300

Mobile: (716) 550 - 1924

[kaa@foalegal.com](mailto:kaa@foalegal.com)

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

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**From:** [FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV) <[FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV)>

**Sent:** Friday, July 7, 2023 10:12 AM

**To:** Karim Abdulla <[kaa@foalegal.com](mailto:kaa@foalegal.com)>; J.Dale Shoemaker <[jdshoemaker@investigativepost.org](mailto:jdshoemaker@investigativepost.org)>

**Cc:** Jim Heaney <[jheaney@investigativepost.org](mailto:jheaney@investigativepost.org)>

**Subject:** RE: FOIA# 1585416/ Western Regional Off-track Betting Corporation

Good morning Mr. Abdulla,

Thank you for your thoughtful response. We understand your concern with the estimated time it would take to complete your request.

Are we understanding correctly that you do not wish to narrow the scope of your request at this time?

Respectfully,

Negotiation Team

Federal Bureau of Investigation

[Fbi.foipa.negotiation@fbi.gov](mailto:Fbi.foipa.negotiation@fbi.gov)

Status Checks: <https://vault.fbi.gov/fdps-1/@@search-fdps> | [foipaquestions@fbi.gov](mailto:foipaquestions@fbi.gov)

For additional information, please visit the [www.fbi.gov/foia](http://www.fbi.gov/foia) website.



---

**From:** Karim Abdulla <[kaa@foalegal.com](mailto:kaa@foalegal.com)>  
**Sent:** Thursday, July 6, 2023 5:20 PM  
**To:** FBI.FOIPA.NEGOTIATION <[FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV)>; J.Dale Shoemaker <[jdshoemaker@investigativepost.org](mailto:jdshoemaker@investigativepost.org)>  
**Cc:** Jim Heaney <[jheaney@investigativepost.org](mailto:jheaney@investigativepost.org)>  
**Subject:** [EXTERNAL EMAIL] - RE: FOIA# 1585416/ Western Regional Off-track Betting Corporation

Dear Sir/Madam, and members of the FBI FOIA Negotiation Team,

Please accept this on behalf of my client, J. Dale Shoemaker, individually and in his capacity as reporter for Investigative Post, as our formal position with regard to the FBI's response to Mr. Shoemaker's request for records made pursuant to the Freedom of Information Act ("FOIA"), request no. 1585416.

On my review of the correspondence below, it is clear that Mr. Shoemaker's request was sufficiently clear to permit the FBI to locate responsive records. Specifically, "approximately 2,664 pages potentially responsive" to Mr. Shoemaker's request have been identified. Thus, there does not appear to be any issue with the request itself. Rather, the sole issue appears to revolve around the timing of production. In that regard, you have advised that given the volume of potentially responsive pages, Mr. Shoemaker's FOIA request falls into the category of a "large track request" (i.e., "500 - 4,999 pages") which, you have advised, take, on average, approximately 55 months – or nearly 4.6 years – to complete.

It is our position that 55 months is patently unacceptable as a time line for processing the request and producing responsive records.

Respectfully, this issue – i.e., the reasonableness of the length of time required by the FBI to process a FOIA request, review potentially responsive pages, and produce such records – has been considered by several courts. In this regard, I direct your attention to the District Court's decision in *Seavey v. DOJ*, 266 F.Supp.3d 241 (D.D.C., July 20, 2017)(copy attached). In *Seavey*, the plaintiff-requestor (Nina Seavey), a documentary filmmaker and academic, submitted numerous FOIA requests to the FBI seeking historical records concerning about individuals, organizations, events, publications, and file numbers relating to the FBI's role in the anti-war movement in St. Louis in the 1960s and 1970s. Those FOIA requests included one made on March 3, 2015, in which she submitted a particularly large request for records to pertaining to hundreds of individuals and organizations, etc. While the FBI on March 23, 2015, acknowledged Ms. Seavey's request, it did little else to respond other than assigning a tracking number. Frustrated, Ms. Seavey brought suit on August 12, 2015 arguing that the FBI had failed to timely respond to her March 3 FOIA request; in that context, she sought an order seeking the processing and production of 5,000 pages per month until the request was complete. In response, the FBI argued that in accordance with its internal policies and procedures, it should have to process no more than 500 pages per month. (In this regard, it is observed that the projected timeline you have currently provided, i.e., 55 months to process up to 4,999 pages works out to be approximately 90 pages per month; assuming the FBI were to take the full 55 months to process 2,664 pages, that would result in a glacial review pace of 48.4 pages per month, or less than one-tenth of that proposed by the FBI in the *Seavey* matter.) As of May 31, 2017 (i.e., just over two years after the request had been made), the FBI had processed 7,574 pages (i.e., three times the total number of pages at issue in this case). While the FBI at that point identified approximately 151,500 pages of responsive records remaining to be reviewed, the parties were able to narrow that to 102,385 pages. On the proposed processing timelines (i.e., plaintiff's request for 5000 pages per month versus the FBI's request for 500 pages per month), the Court noted that production of the 102,385 pages under the FBI's proposal would take 201 months (as opposed to 21 months under Ms. Seavey's proposal).

Suffice it to say that the Court in *Seavey* did not take kindly to the FBI's position. After going through a thorough analysis of FOIA, the Court concluded that while the statute does not include a set timeline for the actual production of records (as opposed to making a "determination" as to the request, which must be done within 20 working days), FOIA requires that agency records be made "promptly available." See *Seavey*, 266 F.Supp.3d at 244. To be sure, the Court noted, while an agency is entitled to "some additional time to physically redact, duplicate, or assemble for production the documents that it has already gathered and decided to produce," the time frame for such, while context dependent, would "typically be within days or a few weeks of a 'determination,' not months or years." *Seavey*, 266 F.Supp.3d at 244. Since FOIA is silent as to the exact amount of time an agency may have or need to review and produce records, the Court noted it was empowered to use its "equitable powers to require the agency to process documents according to a court-imposed timeline" and that "[i]n devising a remedy the Court is mindful that 'unreasonable delays in disclosing non-exempt documents violate the intent and purpose of the FOIA, and the courts have a duty to prevent [such] abuses.'" *Seavey*, 266 F.Supp.3d at 244, 245, citing *Clemente v. Fed. Bureau of Investigation*, 71 F. Supp. 3d 262, 269 (D.D.C. 2014). In that regard, the FBI in *Seavey* argued (as you have here) that it should be permitted to stick to the status quo and process the request in accordance with its standard policy, assigning the request to the appropriate queue based on the volume of potentially responsive pages. Specifically, and as noted above, the FBI's policy as stated in *Seavey* was to process "large" requests at 500 pages per month, which it did (using that metric in this case, it is noted, would yield a full production in 5 months, not 55 months as currently proposed.) That, the Court noted, would result in a total processing time of almost 17 years. *Seavey*, 266 F.Supp.3d at 246. The Court rejected the FBI's position, noting there was no evidence to justify the proposed processing time, and that merely reciting the general policy and procedure was patently insufficient to justify a production rate of 500 pages per month. Accordingly, the FBI was ordered to process and produce records at a rate of not less than 2,850 pages per month. *Seavey*, 266 F.Supp.3d at 248.

Other courts have routinely directed the review and production of responsive documents at rates of between 500 – 5,000 pages per month. See, e.g., *ACLU v United States Dept. of Homeland Sec.*, 2021 US Dist LEXIS 227089, at \*4 (SDNY Nov. 19, 2021)(500 pages per month reasonable); *Clemente v. Fed. Bureau of Investigation*, 71 F. Supp. 3d 262, 269 (D.D.C. 2014) (5,000 pages per month reasonable); *Villanueva v United States DOJ*, 2021 US Dist LEXIS 237920, at \*9 (SD Fla Dec. 13, 2021) (ordering review and production of 5,125 pages per month); *Middle E. Forum v United States Dept. of Homeland Sec.*, 297 F Supp 3d 183, 187 (DDC 2018)(500 pages per month); *Project S. v United States Immigration & Customs Enforcement*, 2022 US Dist

LEXIS 120162, at \*5 (SDNY July 7, 2022)(requiring ICE to process 500 pages per month). The FBI's proposed processing rate in this case, i.e., an effective rate of less than 50 pages per month, is thus wholly unacceptable. Given the state of the law, we are confident that a court of competent jurisdiction would agree. (In that regard, please be advised that my clients reserve all rights with respect thereto.)

We hope that, in light of the foregoing, the FBI is willing to review and reconsider its previously stated position that it could take up to 55 months to review and produce the requested records. By all accounts – and based on the prevailing legal authority – it is our position that the requested records should be made available within, **at most**, the next several months (if not within the next month).

Please advise.

Very truly yours,

Karim

Karim A. Abdulla

**FINNERTY OSTERREICHER & ABDULLA**

70 Niagara Street, Suite 411

Buffalo, New York 14202-3407

Phone: (716) 340 - 2200 x. 225

Fax: (716) 340 - 2300

Mobile: (716) 550 - 1924

[kaa@foalegal.com](mailto:kaa@foalegal.com)

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

---

**From:** Karim Abdulla

**Sent:** Thursday, July 6, 2023 8:27 AM

**To:** [FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV); J.Dale Shoemaker <[jdshoemaker@investigativepost.org](mailto:jdshoemaker@investigativepost.org)>

**Cc:** Jim Heaney <[jheaney@investigativepost.org](mailto:jheaney@investigativepost.org)>

**Subject:** RE: FOIA# 1585416/ Western Regional Off-track Betting Corporation

Good morning, and thank you for the email.

Yes, I am still interested in negotiating this matter.

I am in the process of preparing our position, which I will be forwarding to you later today or tomorrow. I appreciate your patience.

Very truly yours,

Karim

Karim A. Abdulla

**FINNERTY OSTERREICHER & ABDULLA**

70 Niagara Street, Suite 411

Buffalo, New York 14202-3407

Phone: (716) 340 - 2200 x. 225

Fax: (716) 340 - 2300

Mobile: (716) 550 - 1924

[kaa@foalegal.com](mailto:kaa@foalegal.com)

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

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**From:** [FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV) <[FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV)>

**Sent:** Thursday, July 6, 2023 7:52 AM

**To:** J.Dale Shoemaker <[jdshoemaker@investigativepost.org](mailto:jdshoemaker@investigativepost.org)>

**Cc:** Karim Abdulla <[kaa@foalegal.com](mailto:kaa@foalegal.com)>; Jim Heaney <[jheaney@investigativepost.org](mailto:jheaney@investigativepost.org)>

**Subject:** Re: FOIA# 1585416/ Western Regional Off-track Betting Corporation

Good morning Mr. Shoemaker,

Please advise if you are still interested in negotiating this case.

Thank you for your time.

Respectfully,

Negotiation Team

Federal Bureau of Investigation

[Fbi.foipa.negotiation@fbi.gov](mailto:Fbi.foipa.negotiation@fbi.gov)

Status Checks: <https://vault.fbi.gov/fdps-1/@@search-fdps> | [foipaquestions@fbi.gov](mailto:foipaquestions@fbi.gov)

For additional information, please visit the [www.fbi.gov/foia](http://www.fbi.gov/foia) website.



---

**From:** J.Dale Shoemaker <[jdshoemaker@investigativepost.org](mailto:jdshoemaker@investigativepost.org)>  
**Sent:** Thursday, June 29, 2023 3:49 PM  
**To:** FBI.FOIPA.NEGOTIATION <[FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV)>  
**Cc:** Karim Abdulla <[kaa@foalegal.com](mailto:kaa@foalegal.com)>; Jim Heaney <[jheaney@investigativepost.org](mailto:jheaney@investigativepost.org)>  
**Subject:** Re: [EXTERNAL EMAIL] - Re: FOIA# 1585416/ Western Regional Off-track Betting Corporation

Hi there,

Thank you for letting me know about your policy to keep everything in writing. We'll communicate that way moving forward.

To that end, I and my editor, Jim Heaney, feel it's in our best interest to have our attorney, Karim Abdulla, communicate with your team on our behalf from here on. Both Mr. Heaney and Mr. Abdulla are copied on this email. Please let this email serve as me authorizing Mr. Abdulla to negotiate with you on behalf of me and Investigative Post with regard to this matter.

Mr. Abdulla will be following up in the near future to continue this discussion.

All the best,

Dale

On Wed, Jun 28, 2023 at 2:16 PM [FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV) <[FBI.FOIPA.NEGOTIATION@fbi.gov](mailto:FBI.FOIPA.NEGOTIATION@fbi.gov)> wrote:

Good afternoon Mr. Shoemaker,



We communicate by email to have receipt of conversations had. Please let us know if you have any further questions that we can clarify and if you are interested in negotiating this request via email.

Respectfully,

Negotiation Team

Federal Bureau of Investigation

[Fbi.foipa.negotiation@fbi.gov](mailto:Fbi.foipa.negotiation@fbi.gov)

Status Checks: <https://vault.fbi.gov/fdps-1/@@search-fdps> | [foipaquestions@fbi.gov](mailto:foipaquestions@fbi.gov)

For additional information, please visit the [www.fbi.gov/foia](http://www.fbi.gov/foia) website.



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**From:** J.Dale Shoemaker <[jdshoemaker@investigativepost.org](mailto:jdshoemaker@investigativepost.org)>  
**Sent:** Wednesday, June 28, 2023 11:19 AM  
**To:** FBI.FOIPA.NEGOTIATION <[FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV)>  
**Subject:** Re: [EXTERNAL EMAIL] - Re: FOIA# 1585416/ Western Regional Off-track Betting Corporation

Hi there,

Appreciate your response. It would be much easier for me and my fellow reporter to continue these discussions over the phone. Could you please provide a phone number that I could reach you at?

Thank you,

Dale

On Fri, Jun 23, 2023 at 2:13 PM [FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV) <[FBI.FOIPA.NEGOTIATION@fbi.gov](mailto:FBI.FOIPA.NEGOTIATION@fbi.gov)> wrote:

Good afternoon Mr. Shoemaker,

Thank you for the clarification email. A FOIA analyst has yet to review this material so we are limited in

what we can say, though we can let you know the material falls between the years of 1982-2023. We can structure a request around a specific time-frame and move it to the track that would best suit you. You are only able to have one case open per subject. If you choose to negotiate this request down, then you are welcome to submit a new request for additional material upon the completion of the current negotiated request. You may submit your request electronically at <https://efoia.fbi.gov> (available 24 hours a day), fax it to 540-868-4997, or mail it to FBI, Attn: FOIPA Request, [200 Constitution Drive, Winchester, VA 22602-4843](#). Please be sure to include your contact information, to include complete mailing address, on any correspondence.

Please advise how you would like to proceed.

Respectfully,

Negotiation Team

Federal Bureau of Investigation

[Fbi.foipa.negotiation@fbi.gov](mailto:Fbi.foipa.negotiation@fbi.gov)

Status Checks: [https://vault.fbi.gov/fdps-1/@ @search-fdps](https://vault.fbi.gov/fdps-1/@@search-fdps) | [foipaquestions@fbi.gov](mailto:foipaquestions@fbi.gov)

For additional information, please visit the [www.fbi.gov/foia](http://www.fbi.gov/foia) website.



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**From:** J.Dale Shoemaker <[jdshoemaker@investigativepost.org](mailto:jdshoemaker@investigativepost.org)>

**Sent:** Friday, June 23, 2023 10:10 AM

**To:** FBI.FOIPA.NEGOTIATION <[FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV)>

**Subject:** Re: [EXTERNAL EMAIL] - Re: FOIA# 1585416/ Western Regional Off-track Betting Corporation

Hi there,

Please accept my sincere apologies! I sent my last email from a hotel with very poor Wifi and it appears things got lost in translation. Here's what I meant to reply:

In my original request, I asked for "all 302s, investigative files, memos, letters and reports related to or containing mention of" a handful of names and entities, including: George Maziarz, Mark Gabriele, Henry Wojtaszek, Richard Bianchi, Mark Onesi, Henry Sloma, Samuel Ferraro, Western Regional Off-

Track Betting Corporation, Niagara County Industrial Development Agency (IDA) and Niagara County Center for Economic Development.

In your message to me yesterday, you asked about narrowing the scope of this request, based on the timelines you provided for processing.

This is a question I have: Would it be possible to segment my original request into smaller pieces, and receive records piecemeal as your agency completes processing?

If that is possible, I would like to segment the request in the following way:

- I would like all 302s, investigative files, memos, letters and reports related to or containing mention of Henry Wojtaszek and Mark Gabriele first.

- I would like all 302s, investigative files, memos, letters and reports related to or containing mention of Western Regional Off-Track Betting and the Niagara County Industrial Development Agency second.

- I would like all 302s, investigative files, memos, letters and reports related to or containing mention of Richard Bianchi and Mark Onesi third.

- And I would like all 302s, investigative files, memos, letters and reports related to or containing mention of Henry Sloma and Sam Ferraro last.

Could we segment and process my request in that way? If that is possible, could you provide an estimated number of pages and processing time for Segment #1?

Please let me know. I am at 814-215-0509 if it's easier to discuss this over the phone.

Thank you again,

Dale

On Fri, Jun 23, 2023 at 7:32 AM [FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV) <[FBI.FOIPA.NEGOTIATION@fbi.gov](mailto:FBI.FOIPA.NEGOTIATION@fbi.gov)> wrote:

Good morning Mr. Shoemaker,

Thank you for your email and your potential willingness to negotiate. Can you please elaborate on the names listed in the email below?

Respectfully,

Negotiation Team

Federal Bureau of Investigation

[Fbi.foipa.negotiation@fbi.gov](mailto:Fbi.foipa.negotiation@fbi.gov)

Status Checks: [https://vault.fbi.gov/fdps-1/@ @search-fdps](https://vault.fbi.gov/fdps-1/@@search-fdps) | [foipaquestions@fbi.gov](mailto:foipaquestions@fbi.gov)

For additional information, please visit the [www.fbi.gov/foia](http://www.fbi.gov/foia) website.



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**From:** J.Dale Shoemaker <[jdshoemaker@investigativepost.org](mailto:jdshoemaker@investigativepost.org)>

**Sent:** Thursday, June 22, 2023 4:41 PM

**To:** FBI.FOIPA.NEGOTIATION <[FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV)>

**Subject:** [EXTERNAL EMAIL] - Re: FOIA# 1585416/ Western Regional Off-track Betting Corporation

Hi there,

Thank you so much for reaching out about this request. It's nice to hear from you.

As you might imagine, as a journalist, I would like to receive these records as soon as possible. So, let me ask a question:

Would it be possible to narrow my request into segments, and process them one at a time?

For example, I would like to receive records related to Mark Gabriele and Henry Wojtaszek first - is it possible to process those first? If so, what is the timeline?

If that is a feasible solution, I'd like the records processed and sent in the following order:

- Mark Gabriele and Henry Wojtaszek
- Richard Bianchi and Mark Onesi
- Western Regional Off-Track Betting and the
- Niagara County Industrial Development Agency
- Henry Sloma and Samuel Ferraro

Again, my goal here is to receive records sooner than later and I'm willing to be flexible to make that happen.

Please let me know your thoughts and what might be a feasible path forward.

Thank you,

Dale

On Thu, Jun 22, 2023 at 10:29 AM [FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV)  
<[FBI.FOIPA.NEGOTIATION@fbi.gov](mailto:FBI.FOIPA.NEGOTIATION@fbi.gov)> wrote:

Good morning Mr. Shoemaker,

We're contacting you in reference to the FOIPA request number included in the subject line of this email. The FBI located approximately 2,664 pages potentially responsive to your request. In your request, you were willing to pay \$50.00 for processing.

Requests are processed in the order in which they are received through our multi-track processing system:

Small track requests (0-50 pages) current average time is approximately 4 months to complete;

Medium track requests (51-500 pages) current average time is approximately 35 months to complete;

Large track requests (501-4,999 pages) current average time is approximately 55 months to complete; and

Extra-large track requests (over 5,000 pages) current average time is approximately 77 months to complete.

The current average time to complete your large track request is at least 55 months. Reducing the scope of your request may accelerate the processing, allow for a timelier receipt of the information you seek, and reduce the duplication costs, if applicable. Would you be willing to consider reducing the scope of your request to place it in a smaller, potentially faster processing track?

Please let us know if this is something you would be interested in further discussing. If you chose to

narrow the scope of your request, you will be able to request remaining material via a new FOIPA request submission at the completion of this request, subject to applicable fees.

Respectfully,

Negotiation Team  
Federal Bureau of Investigation  
[Fbi.foipa.negotiation@fbi.gov](mailto:Fbi.foipa.negotiation@fbi.gov)

Status Checks: [https://vault.fbi.gov/fdps-1/@ @search-fdps](https://vault.fbi.gov/fdps-1/@@search-fdps) | [foipaquestions@fbi.gov](mailto:foipaquestions@fbi.gov)

For additional information, please visit the [www.fbi.gov/foia](http://www.fbi.gov/foia) website.

[Redacted signature]

--

**J. Dale Shoemaker**

Reporter  
Cell/WhatsApp/Signal: 814-215-0509  
Office: 716-831-2626 ext.5  
Twitter: @JDale\_Shoemaker

[Redacted signature]

487 Main St., #300, Buffalo, NY 14203

--

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**InvestigativePost**

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487 Main St., #300, Buffalo, NY 14203

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Reporter

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Office: 716-831-2626 ext.5

Twitter: @JDale\_Shoemaker

**InvestigativePost**

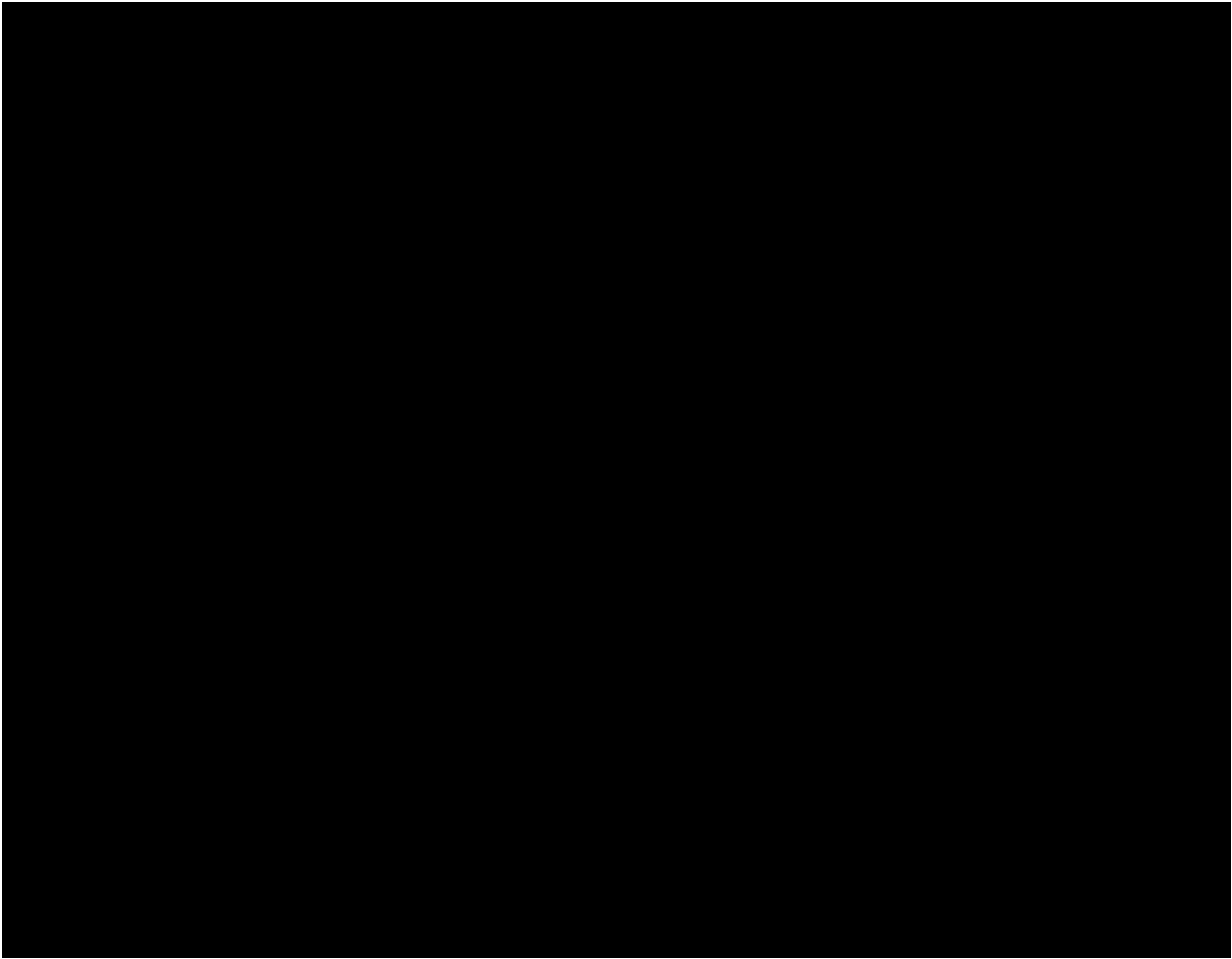
487 Main St., #300, Buffalo, NY 14203

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On Thu, Jun 22, 2023 at 10:29 AM [FBI.FOIPA.NEGOTIATION@FBI.GOV](mailto:FBI.FOIPA.NEGOTIATION@FBI.GOV)  
<[FBI.FOIPA.NEGOTIATION@fbi.gov](mailto:FBI.FOIPA.NEGOTIATION@fbi.gov)> wrote:

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Please let us know if this is something you would be interested in further discussing. If you chose to narrow the scope of your request, you will be able to request remaining material via a new FOIPA request submission at the completion of this request, subject to applicable fees.

Respectfully,

Negotiation Team

Federal Bureau of Investigation

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For additional information, please visit the [www.fbi.gov/foia](http://www.fbi.gov/foia) website.

[Redacted signature area]

--

**J. Dale Shoemaker**

Reporter

Cell/WhatsApp/Signal: 814-215-0509

Office: 716-831-2626 ext.5

Twitter: @JDale\_Shoemaker



487 Main St., #300, Buffalo, NY 14203

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