

Exhibit 3

6800 SW 40th Street – Number 155
Miami, Florida 33155
July 31, 2015

Re: Appeal Filing for FOIPA Request Number 1332633-000

Honorable Director of the Office of Information Policy, United States Department of Justice:

Please consider this communique to be a formal appeal for FOIPA Request Number 1332633-000. I have included a copy of my original FOIA/Privacy Act Request in its entirety.

There are several major issues within the original response to my FOIA/Privacy Act Request, including a statement which bears no relevance to the request. Indeed sir, it is totally out of context. I am going to specific cite line numbers of the communications in order to facilitate the identification of the issues within the Record/Dissemination Section's response to me.

Please see line(s) two (2) and three (3) of the Record/Dissemination Section's response: "Based on the information you provided, we conducted a search of the Central Records System. *We were unable to identify main file records responsive to the FOIPA.*"

Please see the enclosed copy of my initial FOIA/P.A. Request. Lines 15, 16, 17 (italicized and underlined) clearly state that:

This request also includes any and all files, documents, records and investigations classified under the designation 190 and/or 197 main files, as well as all control files including but not limited to those with "-0," "-2," and "-5" designations.

Within my original request, I specified:

- A) 190 Main Files
- B) 197 Main Files

and **Control Files** - including but not limited to those with "-0," "-2," and "-5" designations.

The Record/Dissemination Section's response to me failed to address those extremely important Control Files Sir. They need to readdress my request in an appropriate fashion, under the letter of the law, utilizing the specific parameters as designated within my first request, instead of issuing a vague response which could be construed as stonewalling - or an attempt to blatantly ignore the material(s) and records which I requested.

When processing this request, please note *that the D.C. Circuit has previously held that agencies have a duty to construe the subject material of FOIA requests liberally to ensure responsive records are not overlooked.* See Nation Magazine, Washington Bureau v. U.S. Customs Service, 71 F.3d 885, 890 (D.C. Cir. 1995).

· Sir, the Record/Dissemination Section's response to me was limited and narrow and certainly did not take the D.C. Circuit's holding(s) into consideration whilst responding to my request.

Additionally, in the third paragraph of the response, *the Record/Dissemination Section inserted a reference to a Congressional Exclusion of the release of law enforcement and national security records to requestors, yet I never requested any information regarding my inclusion on any watch lists.*

FOIPA Request Number 1332633-000 specifically focuses on all files, documents, records and investigations classified under the designation 190 and/or 197 main files, as well as all control files including but not limited to those with "-0," "-2," and "-5" designations.

In essence, *the most important aspect(s) of my FOIA request were not responded to, and in their stead, information ("Congressional Exclusions") not relevant to FOIPA Request Number 1332633-000 was inserted, intimating that that this FOIPA request sought records relevant to my inclusion on "watch lists," which it did not.*

· Finally, *the following may be considered as an "addendum" or an "amendment" to FOIPA Request Number 1332633-000, in order to streamline and facilitate the search:*

A) The search should include all "cross" and "see" references, and
B) The following Systems of Records should be utilized, in addition to those referenced in my original request:

- 1) FBI-001 - National Crime Information Center (NCIC)
- 2) FBI-006 - Electronic Surveillance (ELSUR) Indices
- 3) FBI-015 - National Center for the Analysis of Violent Crime (NCAVC)
- 4) FBI-016 - FBI Counterdrug Information Indices System (CIIS)
- 5) FBI-017 - National DNA Index System (NDIS)
- 6) FBI-019 - Terrorist Screening Records System (TSRS)
- 7) FBI-020 - Law Enforcement National Data Exchange (N-DEx)

This request also includes any/all "files, documents and records" which may be contained on other System(s) of records which are not referenced in the preceding paragraph.

For clarification, I am respectfully requesting that the Office of the Director of Information Policy relay to the Record/Dissemination Section that the terms "files, documents and records" include, but are not limited to:

1) all email communications to or from any individual within the Federal Bureau of Investigation and its contracted employees; 2) memoranda; 3) inter-agency communications; 4) intra-bureau communications; 5) sound recordings; 6) tape recordings; 7) video or film recordings; 8) photographs; 9) notes; 10) notebooks; 11) indices; 12) jottings; 13) message slips; 14) biometric data 15) medical and/or psychological references to the requestor; 16) education and/or college/university records; 17) letters or correspondence; 18) telexes; 19) telegrams; 20) facsimile transmissions; 21) interviews and statements; 22) policies; 23) manuals or binders; 24) books; 25) handbooks; 26) business records; 27) personnel records; 28) ledgers; 29) notices; 30) warnings; 31) affidavits; 32) declarations under penalty of perjury; 33) unsworn statements; 34) reports; 35) diaries; 36) calendars; 37) communications to/from third parties, either civilian or governmental, and 38) communications to foreign governments and/or their personnel (including but not limited to Tanzania, Kenya, Rwanda, Ethiopia, Brazil, Haiti and the Democratic Republic of Congo).

All of the aforementioned "files, documents, and/or records" are being requested regardless of their format: handwritten, printed, typed, mechanically or electronically recorded or reproduced on any medium capable of conveying data, sound or image, such as paper, CDs, DVDs, diskettes, computer-contained or external hard-drives, thumb drives and servers.

It also needs to be noted that I have lived in and frequented South Florida, New York, California, Haiti, Rwanda, Tanzania, Kenya, Ethiopia, Brazil, Mozambique and the Democratic Republic of Congo. Any/all records from FBI country-offices, consular, offices, embassy posts, FBI legats (working within foreign embassies and/or consulates), and representatives need to be accessed and searched within the relevant System(s) of Records (as designated within this correspondence) as part of this request.

Furthermore, in line with the guidance issued by the Department of Justice on September 9th, 2008 to all federal agencies with records subject to FOIA, *agency records that are currently in the possession of a U.S. Government contractor for purposes of records management remain subject to FOIA*. Please ensure that my records request complies with this clarification on the effect of Section 9 of the OPEN Government Act of 2007 of the definition of a "record" for purposes of FOIA.

This entails that any/all private corporations, contractors, sub-contractors, and/or federal civilian employees that are currently "maintaining, housing, holding, or in the possession of" any of the aforementioned record types are subject to the September 9th, 2008 Department of Justice directive to federal agencies.

In addition, for the record, the FBI should not interpret this request to exclude correspondence sent to "outside" and/or third parties. That includes third parties working in conjunction with or on behalf of the FBI through regional Data Fusion Centers or civilian contractors working in conjunction with or on behalf of the FBI in foreign countries.

Please also consider this letter an affirmative rejection of any limitation of the Record/Dissemination Section's search to FBI-originated records or to records created prior to the date of this request. To the contrary, I would like to emphasize that my records request includes records created prior and subsequent to the date of the initial review of my FOIA/P.A. Request.

As per court rulings and D.O.J. directives, the FBI is required to interpret the scope of my July 2015 request in the most liberal manner possible - short of an interpretation that would lead to a conclusion that the request does not reasonably describe the records sought. If, even given these restrictions, the FBI still determines that this request does not reasonably describe the records sought, it is instructed that the FBI contact me to discuss reformulation of the request before rejecting the request as overbroad, vague, or unduly burdensome.

If all or part of this request is denied, please direct the Records/Dissemination Section to cite the specific exemptions which it believes justifies its refusal to release the information or permit the review and notify us of your appeal procedures available under the law. In excising material, please require that the Records/Dissemination Section "black out" rather than "white out" or "cut out."

Additionally, I wish to call attention to President Obama's January 21st, 2009 Memorandum to the Heads of Executive Departments and Agencies, directing federal agencies to *adopt a presumption in favor of disclosure* and stating that *government information should not be kept confidential "merely because public officials might be embarrassed by disclosure, because errors and failures might be revealed, or because of speculative or abstract fears."*

Honorable Director, under the law, the Record/Dissemination Section is required to release all of the requested records to me (versus remitting such a vague and non-relevant response), *unless there is a statutorily-indicated exemption. In that case, portions of the record may be omitted, as long as the Record/Dissemination Section cites each specific exemption* that forms the basis of their refusal to release the information.

Sir, under F.O.I.A./P.A. *I am legally entitled to all of the records which I have requested*, which includes control files with the aforementioned designations, the main files and all "cross" and "see" references. The Record/Dissemination Section is obligated to perform the search via the designated parameters as per the Freedom of Information Act, 5 U.S.C. subsection 552 and the Privacy Act, 5 U.S.C. section 552(a), within the files and System(s) of Records as previously referenced – and as stated within my original request.

It is my wish that any documents or records produced in response to this request be provided in electronic (soft-copy) form wherever possible. Acceptable formats are .doc, .docx, .pdf, .jpg, .gif, .tif. Please provide soft-copy records by email or on a CD if email is not feasible. However, I do not agree to pay an additional fee to receive records on a CD or DVD, and in the instance that such a fee is required, I will accept a paper copy of responsive records.

I appreciate your assistance in addressing these issues with me.

Tristan X. di Montenegro
Doctoral Candidate
B.A., M.A.