

UNITED STATES DISTRICT COURT
FOR WILLIAMSPORT, PENNSYLVANIA

Patricia Rorrer OE2170
P.O. Box 180
Muncy, PA 17765

Plaintiff,

v.

Federal Bureau of Investigation
Washington Dc, 20535

Defendant.

4: CV 17- 751

FILED
WILLIAMSPORT
APR 27 2017
PER _____
DEPUTY CLERK
RECEIVED
WILLIAMSPORT
APR 27 2017

COMPLAINT FOR INJUNCTIVE RELIEF

1. This is an action under the Freedom of Information Act, 5 U.S.C. § 552, to order the production of agency records, concerning FOIAP #1335165-000 (1,935 pages of records contained on 4 CDs) which defendant has improperly withheld from plaintiff.
2. This court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B).
3. Plaintiff, Patricia Rorrer, is an inmate currently serving life without parole in a Pennsylvania State Prison, and is the requester of the records which defendant is now withholding. Plaintiff has requested this information for use in a criminal appeal in which Plaintiff is claiming actual innocence, and prompt release of the information is essential to arguing Plaintiff's case to the best of her ability.
4. The Defendant, The Federal Bureau of Investigation, is an agency of the United States and has possession of the documents that plaintiff seeks.
5. By letter dated August 11, 2015, Plaintiff requested access to ALL DNA analysis conducted from December 1994 through June 1998, in relation to the murders of Joann and Alex Katrinak for which Plaintiff was wrongfully convicted in March, 1998. A copy of this letter is attached as Exhibit 1.
6. By letter dated September 18, 2015, Plaintiff was informed that the FBI had located 1,935 pages of records potentially responsive to the subject of Plaintiff's request. The FBI further informed Plaintiff that the pages were contained on 4 CDs for a cost of \$55.00. A copy of this letter is attached as Exhibit 2. At that point, Plaintiff immediately agreed to pay the \$55.00 fee and requested that the 1,935 pages of records be released.
7. By letter dated November 17, 2015, Plaintiff was denied access to all but 22 pages of the requested information on the grounds that it was exempt from disclosure under Exemption Title 5 U.S.C. Section\ 552/552a. A copy of this letter is attached as Exhibit 3.
7. By letter dated November 22, 2015, Plaintiff appealed the denial of this request. A copy of this

letter is attached as Exhibit 4.

8. By letter dated January 20, 2016, Plaintiff's appeal was denied. A copy of this letter is attached as Exhibit 5.

9. Plaintiff has a right of access to the requested information under 5 U.S.C. § 552(a)(3), and there is no legal basis for defendant's denial of such access.

WHEREFORE, Plaintiff requests this Court:

- (1) Order defendant to provide access to the requested documents;
- (2) Expedite this proceeding as provided for in 28 U.S.C. § 1657;
- (3) Award plaintiff costs and reasonable attorney fees in this action, as provided in 5 U.S.C. § 552(a)(4)(E); and
- (4) Grant such other and further relief as may deem just and proper.

Respectfully submitted,



Patricia Rorrer OE2170
P.O. Box 180
Muncy, PA 17756

pro se

Dated:


4/23/17

Aug 11, 2015

To Whom This Concerns: AT FBI

Please send me under the FOIA, Any documents concerning criminal case Patricia L. Rorrer v. KATRINAK, on DNA material, from December of 1994 to June of 1998, especially but not limited to hair, skin, blood, cigarette butts, fingernails, and any other DNA material.

Thank You,


PATRICIA RORRER
OE2170
PO Box 180
Muncy PA 17756

U.S. Department of Justice



Federal Bureau of Investigation
Washington, D.C. 20535

September 18, 2015

MS. PATRICIA RORRER
**OE2170
POST OFFICE BOX 180
MUNCY, PA 17756

FOIPA Request No.: 1335165-000
Subject: RORRER, PATRICIA L. (DNA
ANALYSIS/DECEMBER 1994-JUNE 1998)

Dear Ms. Rorrer:

This is in reference to your Freedom of Information/Privacy Acts (FOIPA) request.

By letter dated August 11, 2015, you indicated your willingness to pay \$ 0. The Federal Bureau of Investigation (FBI) has located approximately 1,935 pages of records potentially responsive to the subject of your request. By DOJ regulation, the FBI notifies requesters when anticipated fees exceed \$25.00.

Please be advised that you are statutorily entitled to the first 100 pages free of charge. If the release is made on Compact Disc (CD), you will receive the cost equivalent (\$5.00) as a credit.

If all potentially responsive pages are released on CD, you will owe \$55.00 in duplication fees (4 CDs at \$15.00 each, less \$5.00 credit for the first CD). Releases are made on CD unless otherwise requested. Each CD contains approximately 500 reviewed pages per release. The 500 page estimate is based on our business practice of processing complex cases in segments.

Should you request that the release be made in paper, you will owe \$91.75 based on a duplication fee of five cents per page. See 28 CFR §16.10 and 16.49.

The FBI located approximately ___ CDs consisting of audio and video files that are potentially responsive to the subject of your request. If all of the potentially-responsive media is released, you will owe \$_____ (___ CDs at \$15.00 each, less \$5.00 credit for the first CD).

CDs will not be sent to a correctional institution. You will only qualify for CD releases if an alternate address is provided.

You will owe approximately \$___ in international shipping fees.

Please remember this is only an estimate, and some of the information may be withheld in full pursuant to FOIA/Privacy Act exemption(s). Also, some information may not be responsive to your subject. Thus, the actual charges could be less.

Exhibit 2



U.S. Department of Justice

Federal Bureau of Investigation
Washington, D.C. 20535

November 17, 2015

MS. PATRICIA RORRER
**OE2170
POST OFFICE BOX 180
MUNCY, PA 17756

FOIPA Request No.: 1335165-000
Subject: RORRER, PATRICIA L.

Dear Ms. Rorrer:

The enclosed documents were reviewed under the Freedom of Information/Privacy Acts (FOIPA), Title 5, United States Code, Section 552/552a. Deletions have been made to protect information which is exempt from disclosure, with the appropriate exemptions noted on the page next to the excision. In addition, a deleted page information sheet was inserted in the file to indicate where pages were withheld entirely. The exemptions used to withhold information are marked below and explained on the enclosed Explanation of Exemptions:

Section 552		Section 552a
<input type="checkbox"/> (b)(1)	<input type="checkbox"/> (b)(7)(A)	<input type="checkbox"/> (d)(5)
<input type="checkbox"/> (b)(2)	<input type="checkbox"/> (b)(7)(B)	<input checked="" type="checkbox"/> (j)(2)
<input type="checkbox"/> (b)(3)	<input checked="" type="checkbox"/> (b)(7)(C)	<input type="checkbox"/> (k)(1)
_____	<input type="checkbox"/> (b)(7)(D)	<input type="checkbox"/> (k)(2)
_____	<input type="checkbox"/> (b)(7)(E)	<input type="checkbox"/> (k)(3)
_____	<input type="checkbox"/> (b)(7)(F)	<input type="checkbox"/> (k)(4)
<input type="checkbox"/> (b)(4)	<input type="checkbox"/> (b)(8)	<input type="checkbox"/> (k)(5)
<input type="checkbox"/> (b)(5)	<input type="checkbox"/> (b)(9)	<input type="checkbox"/> (k)(6)
<input checked="" type="checkbox"/> (b)(6)		<input type="checkbox"/> (k)(7)

27 pages were reviewed and 22 pages are being released.

Document(s) were located which originated with, or contained information concerning, other Government Agency (ies) [OGA].

This information has been referred to the OGA(s) for review and direct response to you.

We are consulting with another agency. The FBI will correspond with you regarding this information when the consultation is completed.

In accordance with standard FBI practice and pursuant to FOIA exemption (b)(7)(E) and Privacy Act exemption (j)(2) [5 U.S.C. § 552/552a (b)(7)(E)/(j)(2)], this response neither confirms nor denies the existence of your subject's name on any watch lists.

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. See 5 U.S.C. § 552(c) (2006 & Supp. IV (2010)). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist. Enclosed for your information is a copy of the Explanation of Exemptions.

Exhibit 3

EXPLANATION OF EXEMPTIONS

SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552

- (b)(1) (A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified to such Executive order;
- (b)(2) related solely to the internal personnel rules and practices of an agency;
- (b)(3) specifically exempted from disclosure by statute (other than section 552b of this title), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;
- (b)(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;
- (b)(5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;
- (b)(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;
- (b)(7) records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or (F) could reasonably be expected to endanger the life or physical safety of any individual;
- (b)(8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or
- (b)(9) geological and geophysical information and data, including maps, concerning wells.

SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552a

- (d)(5) information compiled in reasonable anticipation of a civil action proceeding;
- (j)(2) material reporting investigative efforts pertaining to the enforcement of criminal law including efforts to prevent, control, or reduce crime or apprehend criminals;
- (k)(1) information which is currently and properly classified pursuant to an Executive order in the interest of the national defense or foreign policy, for example, information involving intelligence sources or methods;
- (k)(2) investigatory material compiled for law enforcement purposes, other than criminal, which did not result in loss of a right, benefit or privilege under Federal programs, or which would identify a source who furnished information pursuant to a promise that his/her identity would be held in confidence;
- (k)(3) material maintained in connection with providing protective services to the President of the United States or any other individual pursuant to the authority of Title 18, United States Code, Section 3056;
- (k)(4) required by statute to be maintained and used solely as statistical records;
- (k)(5) investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment or for access to classified information, the disclosure of which would reveal the identity of the person who furnished information pursuant to a promise that his/her identity would be held in confidence;
- (k)(6) testing or examination material used to determine individual qualifications for appointment or promotion in Federal Government service the release of which would compromise the testing or examination process;
- (k)(7) material used to determine potential for promotion in the armed services, the disclosure of which would reveal the identity of the person who furnished the material pursuant to a promise that his/her identity would be held in confidence.

FBI/DOJ

Exhibit 3

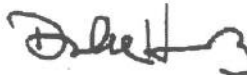
For questions regarding our determinations, visit the www.fbi.gov/foia website under "Contact Us." The FOIPA Request Number listed above has been assigned to your request. Please use this number in all correspondence concerning your request. Your patience is appreciated.

You have the right to appeal any denials in this release. Appeals should be directed in writing to the Director, Office Information Policy (OIP), U.S. Department of Justice, 1425 New York Ave., NW, Suite 11050, Washington, D.C. 20530-0001, or you may submit an appeal through OIP's eFOIA portal at <http://www.justice.gov/oip/efoia-portal.html>. Your appeal must be received by OIP within sixty (60) days from the date of this letter in order to be considered timely. The envelope and the letter should be clearly marked "Freedom of Information Appeal." Please cite the FOIPA Request Number assigned to your request so that it may be easily identified.

The enclosed material is from the main investigative file(s) in which the subject(s) of your request was the focus of the investigation. Our search located additional references, in files relating to other individuals, or matters, which may or may not be about your subject(s). Our experience has shown when ident, references usually contain information similar to the information processed in the main file(s). Because of our significant backlog, we have given priority to processing only the main investigative file(s). If you want the references, you must submit a separate request for them in writing, and they will be reviewed at a later date, as time and resources permit.

See additional information which follows.

Sincerely,



David M. Hardy
Section Chief
Record/Information
Dissemination Section
Records Management Division

Enclosures (2)

In response to your Freedom of Information/Privacy Acts (FOIPA) request submitted to the Records Management Division in Winchester, VA, enclosed is a processed copy of FBI Philadelphia file 7A-PH-76596.

The material contained in 7A-PH-76596 represents the final release of information regarding your FOIPA request.

To minimize costs to both you and the FBI, duplicate copies of the same document were not processed.

This material is being provided to you at no charge.

Exhibit 3

"Freedom of Information Appeal"

Director,
OIP,
US. Dept of Justice
1425 New York Ave., NW
Suite 11050
Washington DC 20530-0001

Patricia Rorer, OED17X
PO Box 180
Muncy PA 17756

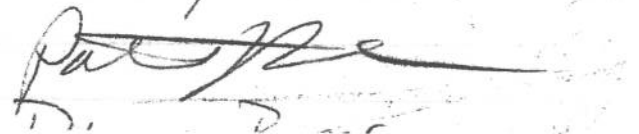
November 22, 2015

re: Patricia Rorer,
FOIPA Request No: 1335165-000

On November 20, 2015 I received 22 of 27 pages of a search I requested. On September 18, 2015, I was notified there were a potential of 1935 pages, 4 CO's, and a potential cost of \$55. I respond I wanted all 4 CO's, and gave the contact address and phone number of Tammy O'Reilly, 13149 St Rte. 374, Union Dale, PA 18470, phone 570-679-3070, for payment and to receive said CO's. I now receive 22 pages!

I am appealing, and asking all 4 CO's be sent to the above address, and/or attorney Craig Neely 209 Main St., Emmaus PA 18049. (Preference going to T. O'Reilly). Payment can, and will be forwarded upon contact of Ms. O'Reilly by phone. I do not care if said CO's are on DNA, or just under the Katrina v Rorer case. I personally know there are even more than 22 or 27 pages of just DNA, as I had them previously. Please reply via phone 570-649-3070.

Sincerely,



cc: Tammy O'Reilly
Attorney Craig Neely



U.S. Department of Justice
Office of Information Policy
Suite 11050
1425 New York Avenue, NW
Washington, DC 20530-0001

Telephone: (202) 514-3642

January 20, 2016

Ms. Patricia Rorrer
No. OE2170
Post Office Box 180
Pennsylvania Department of Corrections
Muncy, PA 17756

Re: Appeal Nos. AP-2016-00664 &
AP-2016-00665
Request No. 1335165-000¹
MWH:RCS

VIA: U.S. Mail

Dear Ms. Rorrer:

You appealed from the action of the Federal Bureau of Investigation on your Freedom of Information Act request for access to specific records concerning you.

After carefully considering your appeal, I am affirming the FBI's action on your request. By letter dated November 17, 2015, the FBI released to you 3 pages of responsive records in full and 19 pages in part. I have determined that the FBI's response was correct and that it conducted an adequate, reasonable search for responsive records subject to the FOIA.

Please be advised that this Office's decision was made only after a full review of this matter. Your appeal was assigned to an attorney with this Office who thoroughly reviewed and analyzed your appeal, your underlying request, and the action of the FBI in response to your request.

By letter dated November 25, 2015, this Office informed you that your administrative appeal from your FOIA request made to FBI for access to records concerning you had been received by this Office and would be assigned for adjudication under Appeal No. AP-2016-00665. However, this Office subsequently learned that your appeal file was a duplicate of Appeal No. AP-2016-00664. In light of these circumstances, I am administratively closing Appeal No. AP-2016-00665 in this Office.

If you are dissatisfied with my action on your appeal, the FOIA permits you to file a lawsuit in federal district court in accordance with 5 U.S.C. § 552(a)(4)(B).

For your information, the Office of Government Information Services (OGIS) offers mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-

¹ Please note that although your appeal referenced Request No. "144165-000" and twenty-two pages released to you, the FBI has no request listed under this number. The FBI does, however, have a request submitted by you listed under Request No. 133165-000. This appeal adjudicates the FBI's decision on Request No. 133165-000.

Exhibit 5

- 2 -

exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, Maryland 20740-6001; e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Sincerely,

1/20/2016

X 

Matthew Hurd, Senior Attorney, for
Sean O'Neill, Chief, Administrative Appeals Staff
Signed by: Hurd, Matthew (OIP)

Exhibit 5

To The Clerk of Court,

Please accept the enclosed documents.
I have never done a motion like it, so if
I am missing something, please either write
me, or call my friend Tammy Mal 570-679-3070,
She got the info off a computer. My entire
appeal in criminal court (PA Superior Eastern Div)
is relying on one half of a report we received.
I tried another FOIA request to no avail. We
need these reports.

Thank you so much for any assistance
you can give,

John Rober
4/23/17

Fatima Porter
0E2170

PO Box 180
Muncy PA 17756

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MS X-RAY

Legal

U.S. District Court
U.S. Courthouse & Federal Office Bldg
240 W. Third St, Suite 218
Williamsport, PA 17701

FIRST CLASS MAIL

