

EXHIBIT E

Question re: Unusual Circumstances on Request # 1433883-000

Scott Anderson <scott.anderson@lawfareblog.com>
To: foipaquestions@fbi.gov

Thu, May 9, 2019 at 10:01 AM

Dear FOIPA public liaison,

I recently received the attached letter regarding FOIA Request # 1433883-000, which Benjamin Wittes and I submitted on April 4, 2019. In this letter, David Hardy, the Section Chief of the Record/Information Dissemination Section, informed us that our request triggered "unusual circumstances" and then provided us the opportunity to reduce the scope of our request. Below is an image of the relevant portion of that letter (which is also attached in full):

FOIPA Request No.: 1433883-000
Subject: FBI Field Offices and Headquarters
Climate Surveys
(2019)

Dear Mr. Anderson:

Please be advised that "unusual circumstances" apply to the processing of your request. See 5 U.S.C. § 552 (a)(6)(B)(iii). "Unusual circumstances" include one or more of the following scenarios:

There is a need to search for and collect records from field offices and/or other offices that are separate from the FBI Record/Information Dissemination Section (RIDS).

There is a need to search for, collect, and examine a voluminous amount of separate and distinct records.

There is a need for consultation with another agency or two or more DOJ components.

These "unusual circumstances" will delay our ability to make a determination on your request within 20 days (excluding weekend and legal public holidays). Additionally, the payment of pertinent fees may apply to your request. See 5 U.S.C. § 552 (a)(4)(A)(viii).

The application of "unusual circumstances" is not a determination of how the FBI will respond to your substantive request, this letter provides notice that these "unusual circumstances" apply to processing and delay the determination of your request. See 5 U.S.C. §§ 552 (a)(6)(A)(viii); (a)(6)(B).

You have the opportunity to reduce the scope of your request; this will accelerate the process and could potentially place your request in a quicker processing queue. This may also reduce search and duplication costs and allow for a more timely receipt of your information. The FBI uses a multi-queue processing system to fairly assign and process new requests. Simple request queue cases (50 pages or less) usually require the least time to process.

We are confused about the basis for this "unusual circumstances" determination. We drafted our request as narrowly as possible in order to expedite a response. Specifically, as we are asking for a discrete set of documents that the FBI has publicly disclosed in the past in relation to prior climate surveys. Moreover, as the climate survey is administered by and only relates to the FBI, it is unclear why a response would require coordination with any other Department of Justice components. Below is an excerpt of the relevant portion of our request (also attached in full):

1. Any documents reflecting the results of the Federal Bureau of Investigation (FBI) Field Office and Headquarters Climate Survey for 2019.

We understand that this survey is generally administered between February and March of each year. You have disclosed the results of prior climate surveys at <https://vault.fbi.gov/>. We are requesting the same types of documents for the 2019 survey.

The full link for the previously disclosed documents is <https://vault.fbi.gov/FBI%20Field%20Office%20and%20Headquarters%20Climate%20Survey%20Results/FBI%20Field%20Office%20and%20Headquarters%20Climate%20Survey%20Results%20%282017%29/view>.

Note that we received a similar "unusual circumstances" notification regarding an identical request we filed last year for the 2018 climate survey results. When we inquired as to the basis for this determination, we were told that our request

was not overly broad and that there was no need to reach out to reduce the scope. Below is a relevant excerpt (again attached in full):

Subject: RE: Issue re: FOIPA Request No. 1402478-000 (FBI Climate Survey)
Date: Tuesday, April 17, 2018 at 8:11:06 AM Eastern Daylight Time
From: FOIPAQUESTIONS
To: Scott Anderson
Attachments: image001.png

Dear Mr. Anderson,

Thank you for contacting foipaquestions@fbi.gov in reference to your Freedom of Information Act (FOIA) request. The letter you received citing unusual circumstances apply in that there is a need to search for and collect records from field offices and/or offices that are separate from the FBI Record/Information Dissemination Section. Your request remains in process and was not deemed overly broad. Furthermore, there is no need to reach out to reduce the scope of your request at this time.

Should you have further questions, please feel free to reach out.

Respectfully,

Public Information Officer

Record/Information Dissemination Section (RIDS) FBI-Records Management Division
170 Marcel Drive, Winchester, VA 22602-4843
Direct: (540) 868-4593
Fax: (540) 868-4391/4997
Questions E-mail: foipaquestions@fbi.gov




Can you confirm that our current request, like our identical request for last year's results, is not overly broad? Or if that is not the case, can you inform us how it could potentially be narrowed further, given that we are asking for a discrete set of documents? Any guidance or clarification would be very much appreciated.

Sincerely,

Scott R. Anderson
David M. Rubenstein Fellow in Governance Studies, The Brookings Institution
Senior Editor, *Lawfare*

P.S.: Note that last year's correspondence was with my alternate work e-mail address sanderson@brookings.edu.

3 attachments

-  **2019.04.18_Letter on Unusual Circumstances_FOIA Request_FBI Climate Survey 2019_.pdf**
104K
-  **2019.04.04_FOIA Request_Climate Survey_FBI_Submitted (2).pdf**
127K
-  **2018 Email Exchange re Unusual Circumstances.pdf**
154K

Question re: Unusual Circumstances on Request # 1433883-000

FOIPAQUESTIONS <FOIPAQUESTIONS@fbi.gov>
To: Scott Anderson <scott.anderson@lawfareblog.com>

Thu, May 9, 2019 at 11:48 AM

Dear Mr. Anderson,

Thank you for contacting foipaquestions@fbi.gov. Unusual circumstances have been applied to this request as there is a need to reach out to other offices in order to collect the records cited. The FBI's FOIPA Program does not need you to narrow the scope of your request.

Respectfully,

Public Information Officer

Record/Information Dissemination Section (RIDS) FBI-Information Management Division

[170 Marcel Drive, Winchester, VA 22602-4843](#)

Direct: (540) 868-4593

Fax: (540) 868-4391

Questions E-mail: foipaquestions@fbi.gov

Do you have further questions about the FOI/PA process? Visit us at <http://www.fbi.gov/foia>

Please check the status of your request online at <https://vault.fbi.gov/fdps-1/@@search-fdps> Status updates are performed on a weekly basis.

Note: This is a non-emergency email address. If this is an emergency, please call 911 directly. If you need to report a tip for immediate action, please contact FBI Tips at <http://tips.fbi.gov/> or reach out to your local field office.

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