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June 23, 2022

United States Department of Justice
441 G Street, NW, 6th Floor
Washington, DC 20530

Attn: Director, Office of Information Policy (OIP)

Re: Freedom of Information Act Appeal
FBI FOIPA Request Number 1438892-000

Dear Sir or Madam,

This is an appeal of the FBI's handling of my FOIPA request, referenced above, and the unjustified and extreme redaction of the released material, to the point that in some cases only reference to existing pages was provided. I base my appeal on the facts noted below.

FOIPA REQUEST BACKGROUND

Over three years ago, on June 1, 2019, I submitted a FOIPA request with the FBI, Request # 1438892-000, requesting copies of the content of one folder in particular, which was found in ex-FBI Director James Comey's office when he was removed from office, and which folder was cataloged by the FBI and placed in possession of the FBI.

In my request I provided a copy of the FBI "Receipt of Property" document that identified the folder, which was titled "*CDC documents (blue folder)*." On November 26, 2019, clearly way beyond the allotted time under FOIA to respond, I was told that the documents would be released to me by July 2020. Since then, after my inquiries, I have received template responses from the FOIPA Public Liaison (hereinafter PIO), who never identified himself/herself by name, even though I requested it, saying that requests can take a long time if there are many documents associated with the release; but as noted above, I am requesting only items in one clearly identified folder, their replies always with new dates for release. According to them, the next release date was February 2022, then March, then May, and finally June 2022.

The actions by the involved personnel in purposefully delaying the release of the records I seek were arbitrary and capricious and an abuse of discretion.

In an attempt to resolve this matter without the need to appeal, I contacted Joseph Bender, the FBI FOIA Public Liaison (hereinafter FPL), but he took no action other than confirming future release dates. Still with the hope of resolving this matter within the FOIPA department, I also requested dispute resolution services from the Office of Government Information Services (OGIS) by email, but they responded on May 19, 2022 and they also failed to perform their duties and did nothing more than "inquire" with the

FPL as to the "status" of my FOIPA request. I replied on May 31, 2022 noting that they were not helping resolve this matter but were simply allowing the PIO to violate FOIPA mandatory requirements. See Exhibit 1.

On the same day, May 31, 2022, the FBI FOIPA office, via Michael G. Seidel, Section Chief, Records/Information, Dissemination Section/Information Management Division, released what is alleged to be all the documents contained in Ex-Director Comey's CDC folder, paper or otherwise. The release consisted of a CD with two PDF files, titled as follows:

"1438892-0 - Preprocessed Release"
- Hereinafter "your letter"

"1438892-0 File 1 of 1"
- Hereinafter "the released documents"

According to the released documents, there were 127 pages of documents pertaining to my request found in Ex-Director Comey's CDC folder. Only pages 1 to 10 were released to me. Page 1 was fully redacted, other than a sort of special agent seal. Pages 2 to 10 were simply press releases from the CDC regarding opioid pain killers, with Mr. Seidel noting that these 10 pages were "*previously processed and released.*"

Pages 11 and 12 were noted as being a "Duplicate."

Pages 13 to 127 were not released, and the included "Deleted Page Information Sheet" (hereinafter "Info Sheet") simply identified each of these pages as "Referral/Consult."

To seek clarification, I replied by email on June 16, 2022, and noted the following:

"Being that the Info Sheet acknowledges the existence of pages 13 to 127, then it means that such documents do not fall in the category of "Intelligence Records" and therefore the mere acknowledgment of the existence of such records is in itself an admission that these records ARE NOT CLASSIFIED AND PROTECTED by FOIA exemption (b)(1) and that they DO NOT REVEAL intelligence sources, methods, or activities protected by exemption (b)(3) [50 USC § 3024(i)(1)]."

In your letter you note exemptions allowed under 5 U.S.C. 552, but by not providing such page 13-127 documents, it is impossible to determine which exemptions applied to which pages or text within such pages, as is required by FOIA/FOIPA regulations. Therefore, please advise on the following:

(1) As to pages 11 and 12, provide them or explain what they are duplicates of.

(2) As to pages 13 to 127, clarify what you mean by "Referral/Consult".

(3) As to pages 13 to 127, being that your Info Sheet notes each individual page, and each is labeled as "Referral/Consult", please advise what 5 U.S.C. 552 or 50 U.S.C. 3024(i)(1) exemptions apply to each page and particular information/sections therein."

See Exhibit 2.

On June 17, 2022 I received what I consider to be a noncooperation, bad-faith response from the PIO, simply referring me back to their previous response letter as to how to appeal and/or contact OGIS again. See Exhibit 3.

BASIS FOR APPEAL

*“Since 1967, the Freedom of Information Act (FOIA) has provided the public the right to request access to records from any federal agency. It is often described as the law **that keeps citizens in the know** about their government. Federal agencies are required to disclose any information requested under the FOIA unless it falls under one of nine exemptions which protect interests such as personal privacy, national security, and law enforcement.”*

See <https://www.foia.gov/about.html>

REFUSAL TO PROVIDE RELEASABLE FOIPA RECORDS IN PROPER FORM

As has been clearly noted and confirmed above, the FBI FOIPA department, with the assistance of that department’s Public Information Officer and their Public Liaison, Joseph Bender, as well as “OGIS Staff,” have apparently worked hand in hand and in coordination with each other to allow the PIO to delay as much as possible the release of the records I requested, which records request was done **over three years ago**.

My FOIPA request consisted of the content of only one folder from Ex-Director Comey’s office (hereinafter the CDC folder). Of the total alleged 127 sheets of paper found therein, only 10 were actually provided, and these were noted as previously released, although no date of that release was noted. Whomever did the previous request had to have requested the whole CDC folder. This means that the FBI FOIPA office had already made a determination as to what information would be released and which and to what extent it would be redacted, showing a bad faith attempt by the PIO to deny me the right to **timely** be provided such records, until I initiated complaints with the Public Liaison and OGIS. My initial FOIPA request noted that all documents were to be released when they became available and not until all were assembled.

In other words, only under pressure did the FBI FOIPA office somewhat comply with its obligation under FOIPA rules, but in further retaliation provided **NO RECORDS** that were contained in the involved folder and as a result those involved are violating their Oath of Office to support and defend the U.S. Constitution, which includes not violating my God-given, Common Law and Constitutional rights, and to comply with the faithful discharge of their duties of office, which includes complying with the FOIA/FOIPA regulations and the spirit and duties therein.

FAILURE TO RELEASE RECORDS VIOLATE FOIPA REGULATIONS

There is no justification whatsoever for the PIO to have only provided a list of records NOT provided, listed as pages 13 to 127, without noting what applicable title 5 U.S.C. 552 and 50 U.S.C. 3024 sections apply. See Exhibit 4. As noted in my reply to Mr. Seidel, none of the exemptions he listed on his letter of May 31, 2022 are applicable to the unwarranted failure to produce/redact 114 pages from my request.

From the perspective of such documents being considered Intelligence Records, being that the Info Sheet acknowledges the existence of pages 13 to 127, then it means that such documents do not fall in

the category of "Intelligence Records" and therefore the mere acknowledgment of the existence of such records is in itself an admission that these records ARE NOT CLASSIFIED AND PROTECTED by FOIA exemption (b)(1) and that they DO NOT REVEAL intelligence sources, methods, or activities protected by exemption (b)(3) [50 USC § 3024(i)(1)].

From the perspective of 5 U.S.C. 552, it is impossible to determine which exemptions applied to which pages or text within such pages, as is required by FOIA/FOIPA regulations. To allow the PIO to refuse to release such records, or to provide them in similar manner as page 1, fully redacted and without notice of which words/phrases/paragraphs fall under what exemption, violates the spirit of FOIA/FOIPA and would allow agencies to act in any manner, legal, illegal and/or fraudulent, which might be to the detriment of living individuals protected under the U.S. Constitution and other applicable laws as noted herein.

To allow the FBI FOIPA office to refuse to release such records or in such unjustified redacted form, denies me my right to access and obtain records, which is intended to **keep me in the know** about FBI operations, to ensure that FBI personnel, individually and in coordination with others are ONLY operating LAWFULLY and under the constraints of legislative, judicial, and executive limitations, as well as within Constitutional authority, ensuring that such agency representatives are not using their position and authority to target any person and/or entity for political and/or other illegal, discriminatory and/or fraudulent purposes, by targeting and/or violating any and all rights that such persons and/or entities have.

APPEAL DECISION REQUIRED WITHIN 20 WORKING DAYS

5 U.S.C 552(a)(6)(A)(ii) notes the following agency requirements when a FOIA/FOIPA appeal is submitted, stating that your agency must *"make a determination with respect to any appeal within twenty days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of such appeal ... The 20-day period under clause (i) shall commence on the date on which the request is first received by the appropriate component of the agency."*

There are no "unusual circumstances" that would apply and justify you from not deciding on my appeal within the 20-day period, and even if there was, 552(a)(6)(B)(i) states that "no such notice shall specify a date that would result in an extension for more than ten working days."

Therefore, and based on the above, I request the following:

1. That the U.S. Department of Justice Director of the Office of Information Policy referenced above confirm receipt of my appeal via email to me to the following address, RicardoBeasV@hotmail.com, and that all future correspondence from this office be by way of my email above.
2. That the U.S. Department of Justice Director of the Office of Information Policy referenced above issue a ruling on my appeal within 20, but no longer than 30 days from the receipt of my appeal.
3. That if this office rules in my favor, that it orders the FBI FOIPA office to release such records within 10 calendar days.
4. The FBI FOIPA office to release in fully unredacted form pages 1 and from pages 10 to 127, in PDF format that is readable and searchable, as opposed to a graphic format. And,

5. In the alternative, that the FBI FOIPA office release the documents noted in 1 above, with only justified, allowed, and legally authorized redactions, with each redacted word, sentence, paragraph, logo, letter heading, image, or the like noting which 5 U.S.C. or 50 U.S.C. exemptions apply.

Respectfully submitted,

Ricardo Beas

cc: Legal Counsel