



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240



20030093DOI002

March 6, 2003

Will Ferroggiaro
Director, Freedom of Information Project
National Security Archive
George Washington University
Gelman Library, Suite 701
2130 H Street, N.W.
Washington, DC 20037

RECEIVED MAR 12 2003

Dear Mr. Ferroggiaro:

On January 31, 2003, you filed a Freedom of Information Act (FOIA) request, addressed to Alexandra Mallus, Departmental FOIA Officer, asking for "copies of the Department of the Interior's ten oldest open or pending Freedom of Information Act requests currently being processed or held pending coordination with other agencies (the "original request").

On February 12, 2003, in a telephone call with the Departmental FOIA Officer, you modified your request to limit it to copies of "the 10 oldest FOIA requests that are open/pending for the Office of the Secretary (the "request").

Your "original request" was received by the Departmental FOIA office on February 3, 2003, perfected on February 12, 2003, and assigned Office of the Secretary FOIA office control number OS-2003-00456. Please cite this number in any future communications or correspondence with the Department of the Interior regarding your "request."

With respect to your "request:"

- (1) The Office of the Secretary FOIA office is responding to your "request," on behalf of the Departmental FOIA office.
- (2) We have classed your "request" as a "media-use request." As a media-use requester, you are entitled to receive 100 pages of duplication of responsive

records without charge before being asked to pay for the copying of any additional records released. As a matter of policy, however, the Department of the Interior does not bill for FOIA fees incurred in processing FOIA requests when the fees do not exceed \$30.00 because the cost of collection would be greater than the fee collected. (43 CFR 2.18(a))

- (3) Enclosed, in response to your "request," are copies of the 10 oldest FOIA requests that are, to the best of our current knowledge,¹ still technically "open" in the Office of the Secretary. These ten documents total twelve pages. With regard to these particular requests:
- a. We have no current knowledge as to whether the individuals originally filing these requests are still interested in their being processed at this time. (Our workload has been so heavy for so long that we have been unable to spare the time to contact them.)
 - b. Other components of the Department may have responded to some or all of these requests, and, quite possibly, have long since satisfied the needs of the individual requesters with respect to these particular requests.
 - c. The program offices within the Office of the Secretary to which these requests were assigned may have already responded to them. We have not formally closed these particular requests because we have not had time to contact the program offices to which they were assigned to remind them that a copy of the agency's final response letter must be received by the Office of the Secretary and filed in its administrative file before any FOIA case file can be formally closed and its contents scheduled for records destruction.

- (4) Deleted from one of the responsive documents, pursuant to Exemption 6 of the FOIA (5 U.S.C. § 552 (b)(6)), is the following information pertaining to the individual named in the record:

Home address
Home telephone number

¹Note: To determine the "10 oldest" requests in the OS we were unable to rely on our current tracking system data because the data in its current configuration has yet to be reconciled since its [2002] conversation from one database format to another. A manual comparison of files and system reports was required.

Exemption 6 allows an agency to withhold "personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." The courts have held that the phrase "similar files" involves all information that applies to a particular person.

When disclosure of information about particular individuals is requested, the courts have decided that it is necessary for us to determine whether release of the information would constitute a clearly unwarranted invasion of the individual's privacy.

To make this determination, we are required to perform a "balancing test." This means that we must weigh the individual's right to privacy against the public's right to disclosure.

- (1) First, we must determine whether the individual has a discernable privacy interest in the information that has been requested.
- (2) Next, we must determine whether release of this information would serve "the public interest generally" (i.e., would "shed light on the performance of the agency's statutory duties.")
- (3) Finally, we must determine whether the public interest in disclosure is greater than the privacy interest of the individual in withholding.

The information that we are withholding consists solely of the information pertaining to individual named in the records. The Office of the Secretary has determined that the individual to whom this information pertain has a substantial privacy interest in it. Additionally, we have determined that the disclosure of this information would shed little or no light on the performance of the agency's statutory duties and that, therefore, the public interest to be served by its disclosure does not outweigh the privacy interest of the individual in question, in withholding it.

In short, we have determined that release of the information that we have withheld would constitute a clearly unwarranted invasion of the privacy of this individual, and that it therefore may be withheld, pursuant to Exemption 6.

Cindy Cafaro, Attorney-Advisor with the Office of the Solicitor, was consulted in reaching this decision. Sue Ellen Sloca, Office of the Secretary FOIA Officer, is

responsible for making this decision.

If you believe that the decision to withhold this information is incorrect, you may file an FOIA appeal by writing to the FOIA Appeals Officer, Office of the Assistant Secretary - Policy, Management and Budget, U.S. Department of the Interior, 1849 C Street, NW, Mail Stop 5312, MIB, Washington, D.C. 20240. Your appeal letter must be received no later than 30 calendar days (excluding Saturdays, Sundays and legal holidays) after the date of our response (this letter). Your appeal letter must be marked, both on its envelope and at the top of its first page, with the legend "FREEDOM OF INFORMATION APPEAL." Your appeal letter must be accompanied by a copy of your original FOIA request (a copy of which is enclosed with our response, for your convenience) and a copy of this letter, along with a brief explanation of why you believe that this decision is in error.

- (5) The FOIA fee for the processing of your "request" within the Department is \$14.46, calculated as follows:

1/4	hour of managerial search time	@ \$11.60 per 1/4 hour
22	pages of photocopying	@ \$.13 per page

Insofar as your fee is less than \$30.00, however, it has been waived because the cost of collection to the Office of the Secretary would have been greater than the fee collected. This does not mean that we have determined that you would have met the legal criteria for a fee waiver if a more extensive fee had been involved.

This concludes our response to your "request."

If you have any questions regarding the Department of the Interior's response to your "request," you may contact me by phone at 202-208-6045, by fax at 202-219-2374, by e-mail at osfoia@nbc.gov, or by mail at U.S. Department of the Interior, MS 1413 MIB, Washington, D.C. 20240. Alternatively, you can provide us with a phone number at which you can be reached, along with the time of day that you prefer to be contacted, and we can attempt to contact you, at our expense, to answer any questions that you might have, regarding your "request." Within the Office of the Secretary, we are committed to providing you, our customer, with the highest quality of service possible.

Sincerely,



Sue Ellen Sloca

Office of the Secretary FOIA Officer

Enclosures

PRIVACY ACT notice: *Before you choose to contact us electronically, there are a few things you should know. The information you submit, including your electronic address, may be seen by various people. We will scan a copy of your request into our electronic OS FOIA administrative/image file. We will key the information that you provide to us into our electronic OS FOIA tracking file. We may share it with other individuals, both within and without the Department, involved in Freedom of Information Act administration. You may be contacted by any of these individuals. In other limited circumstances, including requests from Congress or private individuals, we may be required by law to disclose some of the information you submit. Also, e-mail is not necessarily secure against interception. If your communication is very sensitive, or includes personal information like your bank account, charge card, or social security number, you might want to send it by postal mail, instead.*

The National Security Archive

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Gelman Library, Suite 701
2130 H Street, N.W.
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January 31, 2003

COPY

Alexandra Mallus
Departmental FOIA Officer (MS-5312 MIB)
Office of Information Resources Management
Department of the Interior
1849 C Street, N.W.
Washington, D.C. 20240

Re: Request under the FOIA, in reply please refer to Archive # 20030093DOI002

To Ms. Mallus:

Pursuant to the Freedom of Information Act (FOIA), I hereby request disclosure of the following images for inspection and possible copying:

Copies of the Department of the Interior's ten oldest open or pending Freedom of Information Act requests currently being processed or held pending coordination with other agencies.

If you regard any of these documents as potentially exempt from the FOIA's disclosure requirements, I request that you nonetheless exercise your discretion to disclose them. As the FOIA requires, please release all reasonably segregable nonexempt portions of documents. To permit me to reach an intelligent and informed decision whether or not to file an administrative appeal of any denied material, please describe any withheld records (or portions thereof) and explain the basis for your exemption claims.

As you know, the National Security Archive qualifies for waiver of search and review fees as a representative of the news media. This request is made as part of a scholarly and news research project and not for commercial use. For details on the Archive's research and publication activities, please see our Web site at the address above. Please notify me before incurring photocopying costs over \$100.

To expedite the release of the requested documents, please disclose them on an interim basis as they become available to you, without waiting until all the documents have been processed. If you have any questions regarding the identity of the records, their location, the scope of the request or any other matters, please call me at (202) 994-7045 or e-mail me at wferro@gwu.edu. I look forward to receiving your response within the twenty-day statutory time period.

Sincerely,



Will Ferroggiaro
Director, Freedom of Information Project

