



U.S. Department of Justice
Office of Information Policy
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Washington, DC 20530-0001

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Re: Appeal No. DOJ-AP-2020-001428
Request No. 1436663-000
CDT:PJA

VIA: FOIAonline

Dear Francis Nolan:

You attempted to appeal on behalf of your clients, Defending Rights & Dissent and the Brennan Center for Justice at New York University School of Law, from the failure of the Federal Bureau of Investigation to respond to its Freedom of Information Act request for access to records concerning the Foreign Influence Task Force. I note that your appeal also concerns the placement of your client's request into the FBI's complex track.

Concerning your appeal of the FBI's placement of your clients' request into the complex track, the records your clients seek require the need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request. Thus, your request falls within "unusual circumstances." See 5 U.S.C. § 552(a)(6)(B)(i)-(iii). Therefore, the FBI properly determined that "unusual circumstances" apply to the processing of your clients' request.

Additionally, you assert that your clients' request is entitled to expedited treatment pursuant fourth standard enumerated in the Department of Justice's regulations. Under the fourth standard, your clients must show that the subject matter of their request is a "matter of widespread and exceptional media interest in which there exist possible questions about the government's integrity that affect public confidence." Id. at § 16.5(e)(1)(iv). This Office makes determinations regarding the first three standards, while the Department's Director of Public Affairs makes determinations regarding the fourth standard. See id. at § 16.5(e)(2).

The Director of Public Affairs considered your clients' request for expedited processing under the fourth standard and determined that your clients' request should be denied. I agree with the determination of the Director of Public Affairs that expedited treatment of your clients' request is not warranted under this standard because your clients have failed to sufficiently demonstrate that the subject of your clients' request is "[a] matter of widespread and exceptional

media interest in which there exist possible questions about the government's integrity which affect public confidence." 28 C.F.R. § 16.5(e)(1)(iv) (2019). Accordingly, the Director of Public Affairs properly determined that your clients failed to meet their burden under the fourth standard for expedited processing.

Concerning your appeal of the FBI's failure to respond to your clients' request, please be advised that Department of Justice regulations provide for an administrative appeal to the Office of Information Policy only after there has been an adverse determination by a component. See 28 C.F.R. § 16.8(a) (2019). As no adverse determination has yet been made by the FBI, there is no further action for this Office to consider on appeal.

As you may know, the FOIA authorizes requesters to file a lawsuit when an agency takes longer than the statutory time period to respond. See 5 U.S.C. § 552(a)(6)(C)(i). However, I can assure you that this Office has contacted the FBI and has been advised that your clients' request is being processed. If your clients are dissatisfied with the FBI's final response, they may appeal again to this Office.

This Office has forwarded a copy of your letter to the FBI. You should contact the FBI's Requester Service Center at (540) 868-1535 for further updates regarding the status of your clients' request.

Finally, I note that you requested expedited treatment of your appeal. Because I am closing your underlying appeal, your request for expedited treatment of this appeal is moot.

If you have any questions regarding the action this Office has taken on your appeal, you may contact this Office's FOIA Public Liaison for your appeal. Specifically, you may speak with the undersigned agency official by calling (202) 514-3642.

Sincerely,

1/21/2020

X 

Matthew W. Hurd
Acting Chief, Administrative Appeals Staff
Signed by: MATTHEW HURD