



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

Telephone: (202) 514-3642

Mr. Matt Ehling  
Public Record Media  
Suite 200  
2375 University Avenue West  
St. Paul, MN 55114

Re: Appeal No. DOJ-AP-2018-000619  
Request No. 17-227.  
MWH:TAZ

**VIA: U.S. Mail**

Dear Mr. Ehling:

You appealed from the action of the National Security Division of the United States Department of Justice (NSD) on your Freedom of Information Act request for access to records concerning: (1) Any and all DOJ policies and practices governing the use of law enforcement tools including subpoenas, court orders, and search warrants, to obtain information or records from or concerning members of the news media in criminal and civil investigations between July 12, 2013 and January 23, 2017; (2) Any and all correspondence and/or memoranda relating to modifications to DOJ policies and practices governing the use of law enforcement tools, including subpoenas, court orders, and search warrants, to obtain information or records from or concerning members of the news media in criminal and civil investigations between January 23, 2017 and May 25, 2017; (3) Any and all correspondence between staff members of the White House and staff members of our agency related to the prosecution and/or potential prosecution of journalists under the provisions of the Espionage Act (18 U.S.C. 793) between January 23, 2017 and May 25, 2017; and (4) Any and all memoranda and/or legal opinions related to the prosecution and/or potential prosecution of journalists under the provisions of the Espionage Act (18 U.S.C. § 793) between January 23, 2017 and May 25, 2017. I note that you are appealing the adequacy of NSD's search, NSD's alleged use of an exclusion under 5 U.S.C. § 552(c), and NSD's denial of your request for a fee waiver.

After carefully considering your appeal, and as a result of discussions between NSD personnel and this Office, I am remanding your request to NSD for a further search for responsive records and for further consideration of your request for a fee waiver in light of the additional information you provided on appeal. If NSD locates releasable records, it will send them to you directly, subject to any applicable fees. You may appeal any future adverse determination made by NSD. If you would like to inquire about the status of this remand, please contact NSD directly.

With regard to your allegation that NSD improperly invoked a FOIA exclusion to withhold records from you, although the Department of Justice can neither confirm nor deny that

an exclusion was employed in any particular case, see Attorney General's Memorandum on the 1986 Amendments to the Freedom of Information Act 27 (Dec. 1987), I have carefully considered your allegation and have found this claim to be without merit. Please be advised that this response should not be taken as an indication that an exclusion was or was not used in response to your request.


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 NSD in response to your request.

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-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; email at [ogis@nara.gov](mailto:ogis@nara.gov); telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769. 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,

3/23/2018

X 

Sean R. O'Neill  
Chief, Administrative Appeals Staff  
Signed by: OIP