



U.S. Department of Justice
Office of Legal Counsel

Washington, D.C. 20530

August 3, 2012

Matt Ehling
Public Record Media, LLC
2375 University Ave. W., Suite 200
St. Paul, MN 55114

Dear Mr. Ehling:

I write to confirm information previously conveyed by our counsel in connection with your suit regarding your Freedom of Information Act ("FOIA") request to the Office of Legal Counsel ("OLC") dated October 11, 2011 (FOIA Tracking No. FY12-008). Your request sought three categories of records. We responded to your request on November 3, 2011. With respect to the first category, we neither confirmed nor denied the existence of any responsive records, relying on FOIA Exemptions One, Three, and Five, 5 U.S.C. § 552(b)(1), (3), and (5). With respect to the remaining categories, we indicated generally that we had identified responsive records but were withholding them pursuant to the same exemptions.

I understand that the litigation is limited to the third category of your request, which sought any legal opinions or memoranda produced by OLC between January 2001 and October 1, 2011 relating to the use of lethal force by the United States via the use of unmanned aerial vehicles against any person physically located in the territories of the United States. As our counsel has previously informed your counsel, please be advised that none of the responsive records we identified are responsive to this category. Rather, any responsive records located are responsive to the second category, construed broadly. When responding to a FOIA request, we do not typically identify the categories of a request to which exempt records are responsive.

Your counsel also inquired regarding the status of your FOIA appeal to the Department's Office of Information Policy ("OIP"). It is our understanding that OIP has previously informed your counsel that the appeal had been closed, consistent with the Department's typical practice to close any appeal when a FOIA request becomes a subject of litigation. *See* 28 C.F.R. 16.9(3) ("An appeal ordinarily will not be acted on if the request becomes a matter of FOIA litigation").

Sincerely,

Paul P. Colborn
Special Counsel

Cc: Amy Powell, Trial Attorney, Civil Division, U.S. Department of Justice
J. T. Haines, Public Record Media, L.L.C.