



U.S. Department of Justice
Office of Information Policy
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February 25, 2016

Lisa A. Linsky, Esq.
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Re: Appeal Nos. AP-2016-00335 &
AP-2016-00336
Request Nos. AG/15-03099(F) &
AG/15-03541(F)
MWH:RNB

VIA: E-Mail

Dear Ms. Linsky:

You appealed on behalf of your client, the Mattachine Society of Washington, D.C., from the action of the Initial Request Staff (IR Staff) of the Office of Information Policy, acting on behalf of the Office of the Attorney General, on its Freedom of Information Act request for access to records concerning Executive Order 10450 for the period from 1950 to 1990.¹ I note your appeal concerns only the withholdings made by the IR Staff.

After carefully considering your appeal, I am affirming the IR Staff's action on your request. The FOIA provides for disclosure of many agency records. At the same time, Congress included in the FOIA nine exemptions from disclosure that provide protection for important interests such as personal privacy, privileged communications, and certain law enforcement activities. The IR Staff properly withheld 38 pages in full because they are protected from disclosure under the FOIA pursuant to 5 U.S.C. § 552(b)(5). This provision concerns certain inter- and intra-agency records protected by the deliberative process privilege and the attorney-client privilege.

Furthermore, I am denying your request that we itemize and justify each item of the information withheld. You are not entitled to such a listing at the administrative stage of processing FOIA requests and appeals. See Bangoura v. U.S. Dep't of the Army, 607 F. Supp. 2d 134, 143 n.8 (D.D.C. 2009).

I further note that the IR Staff properly determined that 38 additional pages are not responsive to your client's request. Those pages had nothing to do with Executive Order 10450.

¹ I note that your client's request was originally made to the Federal Bureau of Investigation, which referred two sets of documents to the IR Staff for processing. I am considering your appeal of both responses made by the IR staff in this response.

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 and the action of the IR Staff on the records referred to it.

If your client dissatisfied with my action on your appeal, the FOIA permits your client 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 client's 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; e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Sincerely,

2/24/2016

X 

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