

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CENTER FOR NATIONAL SECURITY)
STUDIES, et al.,)

Plaintiff,)
v.)

DEPARTMENT OF JUSTICE,)

Defendant.)

Civil Action No. 01-2500 (RCL)
Honorable Judge Kessler

DECLARATION OF RAYMOND Q. HOLMES

I, Raymond Q. Holmes, do hereby declare as follows:

1. I am the Acting Chief, Freedom of Information and Privacy Acts (FOIA/PA)

Operations Unit, Office of Records Services, Headquarters Office, Immigration and Naturalization Service ("INS"), ("HQFOIA Office"), Department of Justice (DOJ), Washington, D. C. I have served in this capacity since July 30, 2001. My duties as the FOIA/PA Officer include responding to requests filed under the FOIA, 5 U.S.C. 552 and the PA, 5 U.S.C. Section 552a. This office is responsible for processing requests for records within INS Headquarters. The statements set forth in this declaration are true and correct on the basis of my personal knowledge or on the basis of information acquired by me through the performance of my official duties.

2. In my official capacity, I have been made aware of this lawsuit.
3. As a result of the lawsuit, I checked the information contained in the INS FOIA Processing System ("FIPS") relating to the FOIA request filed by the plaintiffs.

FIPS is the FOIA/PA automated system used by each of the 46 INS FOIA/PA offices to manage, control, and process FOIA requests. Upon receipt of a FOIA request, it is standard operating procedure for the receiving office to enter specific information regarding the request into FIPS. FIPS automatically assigns a control number to each request, and generates an acknowledgment letter, which, inter alia, informs the requester of this control number. There should be a record in the FIPS of every request received by INS. It is INS FOIA/PA standard operating procedure to handle requests on a multi-track processing system and in the order in which they are received. The INS system has two tracks. INS assigns less complex requests to track 1, because these requests generally take little time to complete. INS assigns the more complex requests to track 2, which moves more slowly than track 1 due to the complex nature of the requests. INS notifies requesters of the track to which their requests are assigned. If requests are assigned to track 2, INS advises the requesters that the faster track exists.

4. The INS does not have a central file management system that maintains all of the records kept by the agency. Files are decentralized and maintained by individual components within INS. These records are identified and tracked Service-wide in the INS Central Index System ("CIS"). CIS provides automated information regarding certain classes of aliens and identifies the location of an alien's hardcopy A-file. CIS also provides information for federal and state entitlement programs, and is a source of data for many INS mission functions.
5. To locate responsive records, HQFOIA personnel either conduct a search of the CIS or determine which INS components might reasonably be expected to have

subject records based on the subject matter of the request. After determining in which components responsive documents are located, HQFOIA/PA sends search request notices, along with a copy of the request letter to those components.

These search requests direct the recipients either to provide HQFOIA with a copy of all responsive records or to inform HQFOIA that they have searched but have not located any responsive documents.

Chronology

6. On October 29, 2001, HQFOIA received a hand-delivered FOIA/PA request from Kate Martin, Director, Center for National Security Studies, et al. Plaintiffs requested information concerning individuals arrested or detained in the wake of the September 11 attack. In particular, the requester asked for records pertaining to four subjects - "(1) the identities of each such individual, the circumstances of their detention or arrests, and any charges brought against them; (2) the identity of any lawyers representing any of these individuals, including their names and address; (3) the identities of any courts, which have been requested to enter orders sealing any proceedings in connection with any of these individuals, any such orders which have been entered, and the legal authorities that the government has relied upon in seeking any such secrecy order; and (4) all policy directives or guidance issued to officials about making public statements or disclosures about these individuals or about the sealing of judicial or immigration proceedings." (A copy of the request is attached hereto as Exhibit A.)

7. By letter of November 1, 2001, HQFOIA notified plaintiffs that it had received the FOIA request and had assigned it control number AOA2001000153. INS also notified the requestors that by making the request the requesters agreed to pay up to \$25.00 in fees, if later assessed. INS further advised that it would address the requestors' request for expedited treatment after it completed its search for records, and that based on the nature of the requested records, INS intended to review the request as a track 2 request. (A copy of the acknowledgment letter is attached hereto as Exhibit B.) On November 1, 2001, HQFOIA/PA faxed to the Department of Justice, Office of Public Affairs a memorandum requesting expedited treatment of plaintiffs' FOIA request.¹
8. Since, plaintiffs' request sought records relating to policy/guidance, court secrecy, the charges, arrests, and detained individuals, INS HQFOIA/PA determined that all potentially responsive records would be located in the Office of General Counsel and the Office of Field Operations. HQFOIA/PA determined at that point that no other offices would likely have records responsive to plaintiffs' FOIA request.

Search for Responsive Records

9. On November 1, 2001, HQFOIA began its search for responsive records by sending search requests to the Office of General Counsel and the Office of Field Operations under control numbers LBA2001000032 and LBA2001000033. The

¹ At the time INS received the request from plaintiff, HQFOIA had 16 other similar requests for information concerning the September 11, Attack on America. Of the 16 requests, eight (8) requesters sought and were granted expedited treatment.

legend, Attack on America (AOA), was established as a FOIA accounting of the related requests in the FIPS application. This accounting is used to receive, store, and process requests for information in any way related to the September 11th events. The Library of Attack on America (LBA) numbers relate to a library of imaged documents that were retrieved and scanned into FIPS. In general, this library was created because INS received multiple requests for the same records. LBA holds all documents processed under FOIA pursuant to these requests. When FOIA requests are received for the library documents, the FIPS will retrieve and copy the previously completed response from the LBA. This allows for quicker and consistency in responses. (Copies of the search requests are attached hereto as Exhibits C and D).

10. By electronic mail dated November 7, 2001, the Office of Public Affairs granted expedited treatment of plaintiffs' FOIA request. (A copy of this response is attached hereto as Exhibit E)
11. On November 15, 2001, the Office of Field Operations notified HQFOIA/PA during discussions with that office that it was in the process of identifying documents responsive to the requests regarding the Attack on America. The Office of Field Operations also advised HQFOIA/PA that the number of documents likely to be responsive to such requests could contain over 70,000 pages.
12. By letter dated November 23, 2001, HQFOIA notified plaintiff that it had approved its request for expedited processing. In addition, INS requested that plaintiffs consider narrowing the scope of their request by identifying the

individuals and specific types of information or documents in which they had an interest. (A copy of this letter is attached hereto as Exhibit F). The INS Office of Field Operations delayed expending substantial resources to gather responsive documents until receiving notice whether or not plaintiffs' request would be narrowed. Plaintiffs never responded to the INS request, by either stating that they would consider narrowing the scope of the request or by declining to narrow the scope of their request.

13. By facsimile dated December 10, 2001, HQFOIA sent additional search requests to the INS Office of General Counsel and the Office of Field Operations requesting records responsive to plaintiffs' FOIA request. (Copies of the search requests are attached hereto as Exhibits G & H).

14. By response dated December 11, 2001, the INS Office of Field Operations forwarded potentially responsive documents. HQFOIA was informed that there was another document to be provided.

15. On December 13, 2001, at the recommendation of INS Field Operations Office, HQFOIA sent an electronic mail message to the FOIA contacts in the Field and Regional Office. This message requested a search of the alien files and retrieval of responsive documents. (A copy of the electronic message is attached hereto as Exhibit I.)

16. On December 18, 2001, the Office of Field Operations provided HQFOIA with the additional document consisting of 3 pages. (See December 11 comment above.)

I declare under penalty of perjury that the foregoing is true and correct.

Jan. 11. 02
Date

Raymond Q. Holmes
Raymond Q. Holmes
Acting Chief, Headquarters INS
Freedom of Information and
Privacy Act Unit