



U.S. Department of Justice

Office of Legal Counsel

Washington, D.C. 20530

March 22, 2019

Jumana Musa
Director
Fourth Amendment Center
NACDL
assist@nacdl.org

**Re: FOIA Tracking No. FY18-172;
Nat'l Ass'n of Crim. Defense Lawyers v. BOP et al., D.D.C. No. 18-cv-2399**

Dear Ms. Musa:

This letter responds to your August 2, 2018 Freedom of Information Act ("FOIA") request to the Office of Legal Counsel ("OLC"), among others, in which you sought three categories of "records made on or after January 1, 2006" "concerning federal prosecutors' access to emails between individuals held at Bureau of Prisons ('BOP') facilities and their legal counsel." Pursuant to 28 C.F.R. § 16.5(b), your request was processed in the complex track. As you know, the request is also a subject of the above-captioned litigation.

A search of OLC's files has located no documents responsive to your request.

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. *See* 5 U.S.C. § 552(c). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

For any further assistance and to discuss any aspect of your request, your counsel may contact Mr. W. Mark Nebeker, Assistant United States Attorney, Civil Division, 555 4th Street, N.W., Washington, DC 20530; (202) 252-2536; or at Mark.Nebeker@usdoj.gov.

Additionally, you may contact the Office of Government Information Services ("OGIS") at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. 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.

Although your request is the subject of ongoing litigation, and administrative appeals are not ordinarily acted upon in such situations, I am required by statute and regulation to inform

you of your right to file an administrative appeal. You have the right to an administrative appeal. You may administratively appeal by writing to the Director, Office of Information Policy (“OIP”), United States Department of Justice, Suite 11050, 1425 New York Avenue, NW, Washington, DC 20530-0001, or you may submit an appeal through OIP’s FOIAonline portal by creating an account on the following web site: <https://foiaonline.regulations.gov/foia/action/public/home>. Your appeal must be postmarked or electronically transmitted within 90 days of the date of my response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked “Freedom of Information Act Appeal.”

Sincerely,



Paul P. Colborn
Special Counsel

cc: W. Mark Nebeker, Assistant U.S. Attorney
District of Columbia

Megan Graham, Clinical Teaching Fellow
Samuelson Law, Technology & Public Policy Clinic
U.C. Berkeley School of Law