



U.S. Department of Justice
Civil Division
Federal Programs Branch

Washington, DC

EJS: MCrowley
145-15-3489

Telephone:
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BY EMAIL

April 21, 2015

John H. Clarke
Law Office of John H. Clarke
1629 K Street, NW
Suite 300
Washington, D.C. 20006

Re: Defendant FBI Status Report in *Accuracy in Media et al. v. Department of Defense et al.*, No. 14cv1589 (EGS)

Dear Mr. Clark:

Pursuant to our Joint Meet and Confer Statement filed with the Court on March 3, 2015, I write to provide Plaintiffs with an update on the status of Defendant FBI's search for documents responsive to Plaintiffs' FOIA request dated February 21, 2014, which was subsequently narrowed as reflected in Plaintiffs' Supplemental Complaint and your letter dated February 16, 2014. As contemplated by the parties during the meet and confer conference, this status update responds to your request – on behalf of Plaintiffs – for production of any FBI 302 Interview Reports of John Tiegen, Kris Paronto, or Mark Geist. For the reasons discussed below, Defendant FBI can neither confirm nor deny the existence of any 302 Interview Reports related to these three individuals and, in any event, asserts that any records responsive to this specific request are exempt from disclosure under FOIA Exemption 7(A), 5 U.S.C. § 552(b).

In their FOIA request dated February 21, 2014, Plaintiffs did not specifically request 302 Interview Reports for John Tiegen, Kris Paronto, or Mark Geist. Rather, Plaintiffs requested "September 15th or 16th FBI 302 Interview Reports, and corresponding handwritten notes, of interviews conducted in Germany of United States personnel who had been in the Benghazi mission and the Benghazi CIA annex during the September 11th and 12th attacks on those facilities." (Supp. Compl. ¶ 126). By letter dated March 14, 2014 (attached), Defendant FBI wrote to Plaintiffs:

You have requested records concerning one or more third party individuals. Because you have requested information about a third party and the FBI recognizes an important privacy interest in that information, to help us process

your request we ask that you provide one of the following: (1) an authorization and consent from the individual(s) . . . ; (2) proof of death . . . ; or (3) a justification that the public interest in disclosure outweighs personal privacy In the absence of such information, the FBI can neither confirm nor deny the existence of any records responsive to your request, which, if they were to exist, would be exempt from disclosure pursuant to FOIA Exemptions (b)(6) and (b)(7)(C), 5 U.S.C. §§ 552(b) and (b)(7)(C).

Plaintiffs never provided the FBI with the required documents to waive the privacy rights of any third party individuals.

By email dated March 2, 2015, you first requested the production of 302 Interview Reports specifically related to any interviews of John Tiegen, Kris Paronto, or Mark Geist. Yet Plaintiffs never provided the privacy waiver documents described in FBI's March 14, 2014 letter, specifically: (1) an authorization and consent from the individuals; (2) proof of death; or (3) justification that the public interest in disclosure outweighs personal privacy. As the FBI informed you in its March 14, 2014 letter, in absence of such waivers, the FBI can neither confirm nor deny the existence of any 302 Interview Reports from any alleged interviews of John Tiegen, Kris Paronto, or Mark Geist.

In any event, even if Plaintiffs had provided the requisite privacy waiver documents for these three individuals, the FBI continues to assert that any 302 Interview Reports for alleged interviews of John Tiegen, Kris Paronto, or Mark Geist, would be exempt from disclosure under FOIA Exemption 7(A), 5 U.S.C. § 552(b).

Sincerely yours,

/s/ Megan A. Crowley

Megan A. Crowley
Trial Attorney