



Transactional Records Access Clearinghouse
Syracuse University

August 20, 2015

David M. Hardy Section
Chief Record/Information Dissemination Section
Records Management Division
170 Marcel Drive
Federal Bureau of Investigation
Winchester, VA 22602-4843

RE: Your response dated August 10 2015 (received August 18) to our July 21, 2015 FOIA request (FOIPA Request No. 1333350-000 covering current status of FOIA requests received from Oct. 1, 2012-June 30, 2015)

Dear Mr. Hardy:

We are writing in response to your letter of August 10, 2015 in which you asked for our agreement to pay copying fees now estimated at \$40.00 for copying in response to our above referenced request. Assuming the FBI has a valid basis for imposing copying fees for this request, we agree to pay such appropriate fees. This agreement of course assumes any records provided are responsive to our request and are either in the requested format or a format we have consented to after consultation.

We called your office yesterday morning to seek clarification of the search conducted by your office and the nature of the records that were located. When we did not reach a person, we left a voice mail requesting a call back. We did not hear back from your office. We are therefore sending you this letter to avoid any possible misunderstanding.

We want to advise you that if the records referred to are similar to the records discussed in a February 25, 2015 phone conversation between Greg Munno at TRAC and Dave Sobonya of your office concerning Tracking No. 1320443-000, they do not correspond to the records we requested. Thus providing copies of records if they are similar to those discussed in that conversation, irrespective of the charges, would not be responsive to our request. (We incorporate by reference our earlier letter of March 2, 2015 that outlines our understanding concerning the nature of the earlier search and the records that were located in 1320443-000. We have not received a final response on that earlier request.)

Requested Current Status of FOIA requests. Our request covers all requests received during the requisite 33-month time period, and seeks information about their *current* status. It thus covers all closed, pending and reopened requests. By current status we mean "current" as of the time your search is conducted for the records requested to our July 22, 2015 letter. Given the fact that a request's status can change, information with respect to an earlier status is therefore not responsive to our request.

Record Systems Containing FOIA requests current status. It is our understanding that the FBI maintains computerized FOIA tracking systems that contain request-by-request information on the receipt and processing of its FOIA requests. Because this is the primary location in which the information on the current status is kept, this is the logical place where the information would be found. We note that it is without question that the agency's FOIA tracking database is subject to the disclosure requirements of the Freedom of Information Act. As a 1998 OIP memo states, "The Electronic FOIA amendments codify existing agency practice by specifying that the Act applies to information maintained in electronic form" (<http://1.usa.gov/1GAYR69>). As the FOIA itself states, a "record and any other term used in this section in reference to information includes any information that would be an agency record subject to the requirements of this section when maintained by an agency in any format, including an electronic format" 5 USC 522 (f)(2)(A). As the May 9, 2013, OMB memo states, "Agencies must use machine-readable and open formats for information" 3(1)(a) (<http://1.usa.gov/1iQkPd6>).

Technical Capability to Produce Requested Format. We note that information stored within your FOIA tracking database is digital, and is stored in a structured manner as table(s) where each field of information is found as a column in a table, and each record is stored in a row in each table. It is our understanding that your database contains a built-in capability to produce digital text copies that retain this structured format in the copy produced. Indeed, such information is already being provided by the FBI as part of the process involved in the Department of Justice producing its annual FOIA reports. In addition, since the information we have requested does not require redaction, any limitations that may or may not be present in FBI's redaction methods are irrelevant since the information we have requested contains no sensitive data.

We ask to be contacted if you believe our understanding about these matters is incorrect in any way. If you have any further questions, or we could assist you in any further way, please don't hesitate to contact us by emailing us (trac@syrr.edu) or calling our office directly (315-443-3563). Thank you.

Sincerely,



Susan B. Long Co-Director, TRAC and
Associate Professor
Martin J. Whitman School of Management
Syracuse University



David Burnham Co-Director, TRAC and
Associate Research Professor
Newhouse School of Public Communications
Syracuse University