



Transportation
Security
Administration

September 14, 2017

3600.2
FOIA Appeal 2017-TSAP-00027

Edward Hasbrouck
1736 Franklin Street, 9th Floor
Oakland, CA 94612

Dear Mr. Hasbrouck:

On behalf of the Transportation Security Administration (TSA), I am responding to your letter dated May 23, 2017, in which you appeal the TSA's response to Freedom of Information Act (FOIA) request 2013-TSPA-00520 for, "copies of all records related to TSA FOIA 12-TSA-0092 ("In the matter of John Brennan"), including but not limited to:

- (1) Any docket listing, index, or records from any case management system pertaining to this proceeding.
- (2) Any Notice of Proposed Civil Penalty, Order Assessing Civil Penalty, or Enforcement Investigative Report (EIR) pertaining to this matter.
- (3) Any documents, records, transcripts, recordings, photographs, videos, exhibits, e-mail messages or other communications or messages, or any other items listed on or identifiable from any such docket or index, whether or not they are considered to form part of the "record" of this case for purposes of decision-making by the assigned ALJ."

Specifically, you are appealing, 1) the format of the records provided and 2) the "no records" response to file and file system data and metadata.

Upon review of the administrative record and final response, I affirm the format of the records provided and the "no records" response for file and file system data and metadata.

Agencies are required to provide a responsive record in any form or format requested by the person if the record is readily reproducible by the agency in that form or format.¹ This means that FOIA requests must be processed in a requested format if the capability exists to respond to the request in that format.² You assert that TSA should be able to reproduce digital files as bitwise copies. TSA does not maintain records in bitwise format nor can we produce records in such a format. Additionally, the TSA FOIA office uses a DHS web-based application to manage the FOIA process that includes the processing and production of responsive records. This system processes all records in a PDF format. Therefore, the records are only reproducible by

¹ 5 U.S.C. § 552(a)(3)(B).

² *TPS, Inc. v. U.S. Department of Defense*, 330 F.3d 1191, 1195 (9th Cir. 2003),

TSA in a PDF format. As a result of the records being converted to a PDF, the file and file system data or metadata from the raw format of the records processed are not available. I therefore affirm the format of the records provided and the "no records" response to file and file system data and metadata.

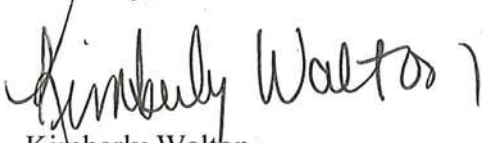
OGIS Mediation

The Office of Government Information Services (OGIS) also mediates disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. If you are requesting access to your own records (which is considered a Privacy Act request), you should know that OGIS does not have the authority to handle requests made under the Privacy Act of 1974. If you wish to contact OGIS, you may email them at ogis@nara.gov or call 1-877-684-6448.

Judicial Review

This is a final decision on your appeal. Should you choose to do so, you may seek judicial review of this decision pursuant to the provisions of 5 U.S.C. § 552(a)(4)(B) in the United States District Court in the district in which you reside, or in which the agency records are situated or in the District of Columbia.

Sincerely,

A handwritten signature in black ink that reads "Kimberly Walton". The signature is written in a cursive style with a large initial "K".

Kimberly Walton
Assistant Administrator for Civil Rights & Liberties,
Ombudsman and Traveler Engagement