



U.S. Department of Justice

Civil Division

Via E-mail

Washington, DC 20530
February 26, 2017

Mr. Joshua A. Rosenthal
Staff Attorney
National Immigration Law Center
1121 14th Street NW
Suite 200
Washington, DC 20005
rosenthal@nilc.org

Request No. 145-FOI-15718
HDK

Dear Mr. Rosenthal:

This is the final response of the Civil Division, Department of Justice to your Freedom of Information Act request for records concerning the decision to terminate the Deferred Action for Childhood Arrivals (DACA) program. This Office received your request on September 25, 2017.

I note that by email dated October 10, 2017, you asked the Civil Division to focus on item 2(a) of your request, which specifically addresses communications with the state attorney general plaintiffs or their staff. In addition, you provided the names of the following current and former Civil Division attorneys likely to have responsive records: Bradley Heath Cohen, Daniel Stephen Garrett Schwei, Kyle Renee Freeny, James J. Gilligan, Kathleen Hartnett, Adam David Kirschner, Jennifer D. Ricketts, Julie Shana Saltman, John R. Tyler and Chad Readler.

The Civil Division located 654 pages responsive to your request. The Civil Division released 463 pages to you in full and 170 pages in part. Twenty pages were withheld in full.

The Civil Division withheld certain information because it is protected from disclosure under the FOIA pursuant to:

- 5 U.S.C. § 552(b)(5), which concerns certain inter- and intra-agency communications protected by the deliberative process privilege and the attorney work-product privilege; and
- 5 U.S.C. § 552(b)(6), which concerns material the release of which would constitute a clearly unwarranted invasion of the personal privacy of third parties.

In addition, the Civil Division referred one page to the Department of Homeland Security (DHS) for processing and direct response to you. See 28 C.F.R. § 16.4 (2016).

I note that by email dated Thursday, February 8, 2018, you asked the Civil Division to search for additional records responsive to your request. Specifically, you asked for the following:

- Records related to or referring to the legality, lawfulness or perceived infirmities of the DACA program;
- Communications or analyses related to or referring to the OLC's November 19, 2014 Memorandum entitled, "The Department of Homeland Security's Authority to Prioritize Removal of Certain Aliens Unlawfully Present in the United States and to Defer Removal of Others";
- Records regarding *Texas, et al., v. United States, et al.*, No. 1:14-cv-00254 (S.D. Tex.) (in addition to the communications identified in item 2(a));
- Communications relating to or referring to the DACA program sent to or received by the following individuals or organizations:
 - Steve Bannon
 - Sebastian Gorka
 - Brandon Judd
 - Brent Bombach
 - Daniel Cox
 - Harold Hanson
 - Alan Metzler
 - Thomas Szold
 - Kris Kobach
 - National ICE Council
 - National CIS Council
 - National Border Patrol Council
 - Center for Immigration Studies
 - Federation for American Immigration Reform.
- Records relating to or referring to the DACA program sent to or received from Congress; and
- Records relating to or referring to the DACA programs sent to or received from any governor or association of governors or state officials and any records created in preparation for or support of such communication.

The Civil Division located one additional document responsive to your request which is being withheld in full.

The Civil Division withheld this information because it is protected from disclosure under the FOIA pursuant to:

- 5 U.S.C. § 552(b)(5), which concerns certain inter- and intra-agency communications protected by the deliberative process privilege and the attorney work-product privilege; and

- 5 U.S.C. § 552(b)(6), which concerns material the release of which would constitute a clearly unwarranted invasion of the personal privacy of third parties.

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.

You may contact our FOIA Public Liaison at 202-514-2319 for any further assistance and to discuss any aspect of your request. 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.

If you are not satisfied with my response to this request, 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,



Hirsh D. Kravitz
Senior Supervisory FOIA Counsel
Office of FOIA, Records, and E-discovery