

FOIA-2021-109 Records



U.S. OFFICE OF SPECIAL COUNSEL
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Washington, DC 20036-4505
(202) 804-7000

April 13, 2022

Mr. Gene Hamilton
American First Legal Foundation
600 14th Street NW, 5th Floor
Washington, D.C. 20005
Via U.S. Mail

Re: Freedom of Information Act Request (#FOIA-2021-109)

Dear Mr. Hamilton:

Please be advised that this is a final response to your request dated June 29, 2021, in which you asked the U.S. Office of Special Counsel (OSC) to provide you with all documents referring or relating to Hatch Act investigations and enforcement; all records referring or relating to the Mike Pompeo Hatch Act case file; and all records relating to the OSC's search for the records identified above from October 16, 2020 to January 21, 2021. You also requested all records evidencing investigations of allegations concerning a federal agency or department's arbitrary or capricious withholding of information prohibited under FOIA and all records evidencing investigations of allegations of alleged prohibited personnel practices, against employees from January 20, 2017 to January 21, 2021. On July 23, 2021, you clarified/narrowed the scope of your request to receiving a copy of previously processed folders entitled Advisory Opinion and Congressional Documents. Subsequently, on February 28, 2022, you further clarified/narrowed the scope of your request for a spreadsheet containing the following information: Case Title, Allegation, Agency, Department, Case Opened, Case Closed, and Closing disposition. Your request has been processed under the Freedom of Information Act (FOIA), 5 U.S.C. § 552 and the Privacy Act, 5 U.S.C. § 552a.

OSC identified 1348 responsive pages. We are releasing seventeen (17) pages to you in full and 1331 pages in part pursuant to FOIA Exemptions (b)(6) and (b)(7)(C).

- FOIA Exemption 6 protects information if disclosure would constitute a clearly unwarranted invasion of personal privacy. *See* 5 U.S.C. § 552(b)(6).
- FOIA Exemption 7(C) protects law enforcement information if disclosure could reasonably be expected to constitute an unwarranted invasion of personal privacy. *See* 5 U.S.C. § 552(b)(7)(C).

In regard to your request for all records referring or relating to the Mike Pompeo Hatch Act case file, without written consent, proof of death, official acknowledgment of an investigation, or an overriding public interest, confirming or denying the existence of law enforcement records concerning an individual could reasonably be expected to constitute an unwarranted invasion of personal privacy. *See* 5 U.S.C. § 552(b)(7)(C). Thus, OSC must decline to confirm or deny whether the requested records exist.

You have the right to appeal this determination under the FOIA. An appeal must be made in writing and sent to OSC's General Counsel at the address shown at the top of this letter or by email

U.S. Office of Special Counsel
Hamilton FOIA-2021-109
April 13, 2022
Page 2 of 2

to FOIAappeal@osc.gov. The appeal must be received by the Office of General Counsel within ninety (90) days of the date of this letter.

If you have any questions or you require dispute resolution services, please feel free to contact Mahala Dar, OSC's Chief FOIA Officer and acting FOIA Public Liaison, at mdar@osc.gov or (202) 804-7000. Please reference the above tracking number when you call or write. 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.¹

Thank you,

/s/

Mahala Dar, Esq.
Clerk

¹ Office of Governmental Information Services (OGIS), National Archives and Records Administration 8601 Adelphi Road, Room 2510, College Park, MD 20740-6001; ogis@nara.gov (Email) 202-741-5770 (Office) 1-877-684-6448 (Toll Free) 202-741-5769 (Fax)