



U.S. OFFICE OF SPECIAL COUNSEL
1730 M Street, N.W., Suite 218
Washington, D.C. 20036-4505
202-254-3600

October 20, 2015

Mr. Bruce E. Schundler
Mrs. Sara F. Schundler
47 Four Oaks Road
Bedminster, New Jersey 07921
Via E-Mail at bruce@schundler.net

Re: [Freedom of Information Act \(FOIA\)/Privacy Act \(PA\) Request FP-14-0182](#)

Dear Mr. and Mrs. Schundler:

I am writing in response to your FOIA/PA request to the U.S. Office of Special Counsel (OSC), in which you asked for a copy of the "final draft report" and "the last actual 'final report'" of investigations OSC conducted for case numbers MA-11-2436 and MA-11-3151. OSC processed your request under the Privacy Act, 5 U.S.C. § 552a, and the FOIA, 5 U.S.C. § 552. We regret the delay in processing your request.

The Privacy Act permits agencies to exempt a system of records from public access if the system consists of investigatory material compiled for law enforcement purposes. Based on that authority, OSC has exempted its complaint, whistleblower disclosure, and Hatch Act records from public access. *See* 5 C.F.R. § 1830.6. For that reason, OSC must deny your request for information under the Privacy Act.

Information exempted from release by the Privacy Act, however, may be attainable under the FOIA. In other words, a FOIA request may provide access to some records that a Privacy Act request does not. After reviewing your request under the FOIA, OSC identified one 13-page draft document responsive to your request. We are withholding that document in full in accordance with FOIA Exemption 5, which protects from disclosure material that is normally privileged in civil litigation pursuant to one or more legal privileges (in this instance, the attorney work product and deliberative process privileges). *See* 5 U.S.C. 552(b)(5). Certain portions are also withheld pursuant to Exemption 7(C), which exempts from disclosure law enforcement records whose disclosure "could reasonably be expected to constitute an unwarranted invasion of personal privacy". *See* 5 U.S.C. 552(b)(7)(C).

You have the right to appeal this determination under both the Privacy Act and the FOIA. Any such 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 E-Mail to FOIAappeal@osc.gov. The appeal must be received by the Office of General Counsel within 45 days of the date of this letter.

U.S. Office of Special Counsel

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Mrs. Sara F. Schundler

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If you have any questions about your request, please do not hesitate to contact me at (202) 254-3636 or via E-Mail at dkral@osc.gov.

With kind regards,

/s/

Dawn R. Kral
FOIA Public Liaison