

Human Rights Defense Center

DEDICATED TO PROTECTING HUMAN RIGHTS

October 4, 2023

U.S. OFFICE OF SPECIAL COUNSEL
1730 M Street, N.W., Suite 218
Washington, DC 20036-4505
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Submitted via online FOIAappeal@osc.gov

Administrative Appeal FOIA Request # FOIA-2023-118

Request for The Letter Written by Office of Special Counsel Regarding the Conditions of Confinement at the Dublin Women's Prison

To the Office of Special Counsel General Counsel:

The Human Rights Defense Center (HRDC). HRDC is a 501(c)(3) non-profit organization that publishes two journals and multiple books reporting on prisons, jails and other detention facilities. Before a name change approved by the Secretary of State in Washington in 2009, HRDC was known as Prison Legal News.

HRDC appeals the denial of FOIA request # FOIA-2023-118 on the basis of the Special Counsel's claim that you were unable to identify records. The Privacy Act exemption is being improperly applied to this request because:

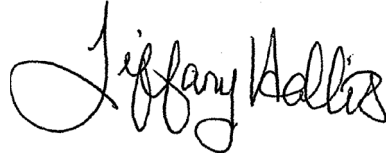
1. The federal proceedings about which this request was submitted are public information and therefore subject to FOIA disclosure under the Freedom of Information Act, 5 U.S.C. § 552, *et seq.* Just because records sought may contain sensitive information, including names, does not mean the entire document should be withheld. Rather, the BOP has the duty to redact information per the federal exemptions outlined in the FOIA laws.
2. The use of these records will contribute significantly to the public's understanding of how the Bureau of Prisons (1) uses taxpayer dollars and (2) handles claims of severe misconduct by corrections officers, including repeated sexual assault and rape of inmates; and also how this BOP Dublin, California facility was allowed to fall into its current state of dangerous disrepair. Disclosure of this report and letter is clearly in the public's interest and significantly outweighs any potential privacy concerns. As mentioned, the BOP or Special Counsel is required to redact any exempted information in the documents (birthdates, SSN, bank account information, etc.), but the Privacy Act does not justify

withholding the documents in their entirety, nor disclaiming knowledge of their existence.

3. The blanket assertion that your office can't confirm or deny the existence of these records is not reasonable given the media coverage relating the Office of Special Counsel's investigation of this facility. (*See, e.g.*, the AP article attached to our original request)
4. The documents requested by HRDC do not fall under the exceptions of 5 U.S.C. § 552(b)(7)(C) as cited in your denial letter. Even to the extent that responsive records would fall under that exemption, the appropriate response would be disclosure and redaction.
5. This blanket asserts a sweeping, general basis for withholding the information. It is therefore not clear whether there is a denial of the records, or if they exist and are being withheld, or how the stated exemptions apply to the information in the requested records.
6. As the Ninth Circuit has noted "Congress did not intend for the IRS, or any other agency, to use the FOIA offensively to hinder the release of non-exempt documents" *Long v. United States I.R.S.*, 693 F.2d 907, 910 (9th Cir. 1982).

Please contact me via email, FOIA@humanrightsdefensecenter.org, should you require any additional information. Thank you for your time and attention in this matter.

Sincerely,

A handwritten signature in black ink that reads "Tiffany Hollis". The signature is written in a cursive, flowing style.

Tiffany Hollis
Public Records Manager
HUMAN RIGHTS DEFENSE CENTER