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*Counsel for Defendants*

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

_____	)	
JASON MOUNT,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 16-2532 (CRC)
	)	
UNITED STATES DEPARTMENT	)	
OF HOMELAND SECURITY and	)	
JOHN F. KELLY, Secretary of Homeland	)	
Security,	)	
	)	
Defendants.	)	
_____	)	

**STATEMENT OF UNDISPUTED MATERIAL FACTS**

Pursuant to Local Civil Rule 7(h), Defendants respectfully submit this Statement of Undisputed Material Facts in support of Defendants’ Motion for Summary Judgment.

1. On November 18, 2012, Plaintiff submitted to the Department of Homeland Security Office of Inspector General a FOIA request seeking “copies of any and all DHS OIG records and/or reports from January 1, 2002 through November 17, 2012 that contain information regarding an allegation that U.S. Immigration and Customs Enforcement, Homeland Security Investigations, Supervisory Special Agent Peter Edge lost his official credentials to a prostitute and the credentials had to be retrieved by local police.” Declaration of Jonathan Parnes (Office of Inspector General) in Support of Defendants’ Motion for Summary Judgment (“Parnes Declaration”) ¶ 5.

2. On November 27, 2012, DHS OIG issued a final response to Plaintiff's FOIA request. In its response, DHS OIG refused to confirm or deny the existence of responsive records pursuant to Exemption 7(C) of the FOIA. *Id.* ¶ 6.

3. By letter dated January 24, 2013, Plaintiff submitted an appeal to DHS OIG's final response. *Id.* ¶ 7.

4. DHS OIG affirmed its final response and denied Plaintiff's appeal in a letter dated June 30, 2014. *Id.* ¶ 8.

5. The information by Plaintiff, if it exists, would have been compiled for law enforcement purposes. *Id.* ¶ 13.

6. The disclosure of the information sought could reasonably be expected to invade the personal privacy of the third party subject of the request. *Id.* The third party was a living DHS employee who had not affirmatively waived his privacy rights and DHS OIG had not publicly confirmed that he was or is the subject of a federal investigation. *Id.* ¶ 14.

7. Disclosing this information would shed little to no light on the agency's performance of its mission or statutory duties and would be far outweighed by the third party's privacy rights. *Id.* ¶ 16.

Respectfully submitted,

CHANNING D. PHILLIPS, D.C. BAR # 415793  
United States Attorney

DANIEL F. VAN HORN, D.C. BAR #924092  
Chief, Civil Division

/s/

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**UNITED STATES DISTRICT COURT  
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UNITED STATES DEPARTMENT		)	
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JOHN F. KELLY, Secretary of Homeland		)	
Security,		)	
		)	
	Defendants.	)	
<hr/>		)	

**MEMORANDUM IN SUPPORT OF  
DEFENDANT’S MOTION FOR SUMMARY JUDGMENT**

Plaintiff Jason Mount brought this action against Defendants Department of Homeland Security and John F. Kelly, the Secretary of Homeland Security, under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, challenging DHS’s response to Plaintiff’s FOIA request seeking DHS Office of Inspector General (“DHS OIG”) records regarding an alleged investigation into alleged wrongdoing by a particular DHS employee.

The Complaint seeks access to the requested records under the FOIA. Summary judgment should be granted in Defendants’ favor because DHS OIG properly refused to confirm or deny the existence of records responsive to Plaintiff’s request. The law enforcement records, if they exist, would be protected from disclosure by Exemption 7(C) of the FOIA. For the agency to confirm or deny the existence of such records would undermine the protections of Exemption 7(C).

### **FACTUAL BACKGROUND**

Defendant hereby incorporates its Statement of Undisputed Material Facts and the Declaration of Jonathan Parnes.

### **LEGAL STANDARD**

Summary judgment is appropriate when the pleadings and evidence “show[] that there is no genuine issue as to any material fact and that the movant is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(a); *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 247 (1986); *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986); *Tao v. Freeh*, 27 F.3d 635, 638 (D.C. Cir. 1994). The party seeking summary judgment must demonstrate the absence of a genuine issue of material fact. *See Celotex*, 477 U.S. at 248. A genuine issue of material fact is one that “might affect the outcome of the suit under the governing law.” *Anderson*, 477 U.S. at 248. Once the moving party has met its burden, the nonmoving party “may not rest upon the mere allegations or denials of his pleading, but . . . must set forth specific facts showing that there is a genuine issue for trial.” *Anderson*, 477 U.S. at 248.

The “vast majority” of FOIA cases are decided on motions for summary judgment. *See Brayton v. Office of U.S. Trade Rep.*, 641 F.3d 521, 527 (D.C. Cir. 2011); *Media Research Ctr. v. U.S. Dep’t of Justice*, 818 F. Supp. 2d 131, 136 (D.D.C. 2011) (“FOIA cases typically and appropriately are decided on motions for summary judgment.”); *Citizens for Responsibility & Ethics in Washington v. U.S. Dep’t of Labor*, 478 F. Supp. 2d 77, 80 (D.D.C. 2007) (“CREW”). An agency may be entitled to summary judgment in a FOIA case if it demonstrates that no material facts are in dispute, it has conducted an adequate search for responsive records and each responsive record that it has located either has been produced to the plaintiff or is exempt from disclosure. *See Weisberg v. Dep’t of Justice*, 627 F.2d 365, 368 (D.C. Cir. 1980).

To meet its burden, a defendant may rely on reasonably detailed and non-conclusory declarations. *See McGehee v. C.I.A.*, 697 F.2d 1095, 1102 (D.C. Cir. 1983); *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973), *cert denied*, 415 U.S. 977 (1974); *Media Research Ctr.*, 818 F. Supp. 2d at 137. “[T]he Court may award summary judgment solely on the basis of information provided by the department or agency in declarations when the declarations describe ‘the documents and the justifications for nondisclosure with reasonably specific detail, demonstrate that the information withheld logically falls within the claimed exemption, and are not controverted by either contrary evidence in the record nor by evidence of agency bad faith.’” *CREW*, 478 F. Supp. 2d at 80 (quoting *Military Audit Project v. Casey*, 656 F.2d 724, 738 (D.C. Cir. 1981)). “[A]n agency’s justification for invoking a FOIA exemption is sufficient if it appears ‘logical’ or ‘plausible.’” *Media Research Ctr.*, 818 F. Supp. 2d at 137 (quoting *Larson v. Dep’t of State*, 565 F.3d 857, 862 (D.C. Cir. 2009)).

### **ARGUMENT**

The FOIA requires that an agency release all records responsive to a properly submitted request unless such records are protected from disclosure by one or more of the Act’s nine exemptions. 5 U.S.C. § 552(b); *U.S. Dep’t of Justice v. Tax Analysts*, 492 U.S. 136, 150-51 (1989). Once the court determines that an agency has released all non-exempt material, it has no further judicial function to perform under the FOIA and the FOIA claim is moot. *Perry v. Block*, 684 F.2d 121, 125 (D.C. Cir. 1982); *Muhammad v. U.S. Customs & Border Prot.*, 559 F. Supp. 2d 5, 7-8 (D.D.C. 2008). As demonstrated below, Defendant satisfied its obligations under the FOIA by refusing to confirm or deny the existence of records sought by Plaintiff.

### **DHS OIG Properly Asserted the Glomar Response**

DHS OIG properly refused to confirm or deny the existence of records pertaining to Supervisory Special Agent (“SSA”) Peter Edge that would be exempt from disclosure pursuant to FOIA Exemption 7(C). DHS OIG issued a “Glomar” response because to acknowledge the existence of records would reveal personal information that the FOIA exemptions are intended to protect. *See Wolf v. CIA*, 473 F.3d 370, 374 (D.C. Cir. 2007). The Glomar response is in recognition that in some circumstances a FOIA request can, by its very terms, be limited to privacy-sensitive information pertaining to an identified individual or is necessary to protect the privacy interest of individuals who are named in investigatory records. In such cases, redaction alone would not be adequate to protect the personal privacy interests at stake. “When an agency’s response is neither to confirm nor deny the existence of responsive documents—commonly known as a Glomar response—the agency ‘must demonstrate that acknowledging the mere existence of responsive records would disclose exempt information.’” *Judicial Watch, Inc. v. United States Dept. of Justice*, 898 F. Supp. 2d 93, 101 (D.D.C. 2012) (quoting *Electronic Privacy Info. Ctr. v. NSA*, 678 F.3d 926, 931 (D.C. Cir. 2012)). “Ultimately, an agency’s justification for invoking a FOIA Exemption is sufficient if it appears ‘logical’ or ‘plausible.’” *Wolf*, 473 F.3d at 374–75.

The documents sought by Plaintiff in this case, if they exist, are appropriately classified under Exemption 7(C). Exemption 7(C) exempts from disclosure “records and information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information . . . could reasonably be expected to constitute an unwarranted invasion of personal privacy.” 5 U.S.C. § 552(b)(7)(C). Here, Plaintiff seeks “DHS OIG records and/or reports” regarding an allegation that “Supervisory Special Agent Peter Edge

lost his official credentials to a prostitute and the credentials had to be retrieved by local police.” The records sought, if they exist, would have been compiled for law enforcement purposes as they would relate to charges of illegal activity against a DHS employee. *See Nat’l Whistleblower Ctr. v. HHS*, 849 F. Supp. 2d 13, 27 (D.D.C. 2012) (files were compiled for law enforcement purposes whether they “were compiled to carry out investigations in response to specific allegations with the potential to lead to enforcement actions against the targets”); *see also* Complaint, ECF No. 1, ¶ 9 (referring to SSA Edge’s “alleged criminal actions”).

Next, in applying FOIA Exemption 7, courts must determine whether disclosure is warranted by “balanc[ing] the public interest in disclosure against the [privacy] interest Congress intended the Exemption to protect.” *United States DOJ v. Reporters Comm. for Freedom of Press*, 489 U.S. 749, 776 (U.S. 1989); *see also Davis v. U.S. Dep’t of Justice*, 968 F.2d 1276,1281 (D.C. Cir. 1992) (“Under Exemption 7(C) . . . we balance the privacy interests that would be compromised by disclosure against the public interest in release of the requested information.”).

It is well established that an individual’s association with a criminal investigation, as a suspect, witness, or source, tends to stigmatize that individual. *See Schrecker v. United States DOJ*, 349 F.3d 657, 661 (D.C. Cir. 2003) (“On the privacy side of the ledger, our decisions have consistently supported nondisclosure of names or other information identifying individuals appearing in law enforcement records, including investigators, suspects, witnesses, and informants.”); *Nation Magazine v. United States Customs Service*, 71 F.3d 885, 896 (D.C. Cir. 1995) (“[T]o the extent any information contained in 7(C) investigatory files would reveal the identities of individuals who are subjects, witnesses, or informants in law enforcement investigations, those portions of responsive records are categorically exempt from disclosure under *SafeCard*”) (discussing *Safecard Services, Inc. v. SEC*, 926 F.2d 1197 (D.C. Cir. 1991)). Here, DHS OIG correctly

determined that SSA Edge was a living DHS employee who had not affirmatively waived his privacy rights and that DHS OIG had not publicly confirmed that he was or is the subject of a federal investigation. Parnes Decl. ¶ 14. Accordingly, DHS OIG appropriately determined that there was a cognizable privacy interest at stake. *Id.*

Plaintiff has not overcome the significant privacy interest with any showing of a relevant public interest. To do so, Plaintiff must “(1) show that the public interest sought to be advanced is a significant one, an interest more specific than having the information for its own sake, and (2) show the information is likely to advance that interest.” *Boyd v. Criminal Div. of the U.S. Dep’t of Justice*, 475 F.3d 381, 387 (D.C. Cir. 2007). “[T]he only public interest relevant for purposes of Exemption 7(C) is one that focuses on the citizens’ right to be informed about what their government is up to.” *Davis v. U.S. Dep’t of Justice*, 968 F.2d 1276, 1282 (D.C. Cir. 1992). DHS OIG determined appropriately that Plaintiff did not establish a significant public interest in disclosure of the requested records.

Plaintiff’s Complaint alleges that “[t]he Agency . . . has already acknowledged the disciplinary records exists [sic] because it interviewed Plaintiff as a part of an administrative inquiry into Peter Edge’s alleged criminal actions.” Complaint ¶ 9. Plaintiff appears to be attempting to invoke the Glomar exception that “when information has been ‘officially acknowledged,’ its disclosure may be compelled even over an agency’s otherwise valid exemption claim.” *Wolf*, 473 F.3d at 378. But to invoke this exception, “the information requested must already have been made public through an official and documented disclosure.” *Id.* Also, “a plaintiff asserting a claim of prior disclosure must bear the initial burden of pointing to specific information in the public domain that appears to duplicate that being withheld.” *Id.* “Prior disclosure of similar information does not suffice; instead, the specific information sought

by the plaintiff must already be in the public domain by official disclosure.” *Id.* Accordingly, even assuming for purposes of argument that Plaintiff was interviewed as part of an alleged inquiry into SSA Edge’s alleged actions, that would not suffice to establish an official disclosure that has placed the requested information into the public domain. Indeed, most investigations involve interviews of witnesses. If disclosure of the fact of an investigation in the context of a witness interview were sufficient to constitute prior disclosure, the Glomar rule could never be applied as it often is, to protect against disclosure of the existence of an investigation.<sup>2</sup>

### **CONCLUSION**

For the reasons set forth above, Defendants respectfully request that this Court grant summary judgment in favor of Defendants as to all claims in this case.

Respectfully submitted,

CHANNING D. PHILLIPS, D.C. BAR # 415793  
United States Attorney

DANIEL F. VAN HORN, D.C. BAR #924092  
Chief, Civil Division

/s/

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JOSHUA KOLSKY, D.C. BAR # 993430  
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[joshua.kolsky@usdoj.gov](mailto:joshua.kolsky@usdoj.gov)

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<sup>2</sup> As the agency properly refused to confirm or deny the existence of records pursuant to Exemption 7(C), it is not required to prove that it performed an adequate search for documents. *See International Counsel Bureau v. U.S.C.I.A.*, 774 F.Supp.2d 262, 277 (D.D.C. 2011) (where a “Glomar response was appropriate . . . and was adequately supported by affidavit, review of the adequacy of the search is unnecessary.”); *Greenberg v. U.S. Dep’t of Treasury*, 10 F. Supp. 2d 3, 24 (D.D.C. 1998) (“Although an agency must usually provide detailed affidavits proving that it performed an adequate search for documents, an exception exists if the agency properly refuses to confirm or deny the existence of records in accordance with Exemption 7(C).”).

*Counsel for Defendants*

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

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JASON MOUNT,		)	
		)	
	Plaintiff,	)	
		)	
v.		)	Civil Action No. 16-2532 (CRC)
		)	
UNITED STATES DEPARTMENT		)	
OF HOMELAND SECURITY and		)	
JOHN F. KELLY, Secretary of Homeland		)	
Security,		)	
		)	
	Defendants.	)	
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**ORDER**

Upon consideration of Defendants’ Motion for Summary Judgment, Plaintiff’s response thereto, if any, and the entire record herein, it is hereby **ORDERED** that Defendants’ Motion for Summary Judgment is **GRANTED**.

It is **SO ORDERED** this \_\_\_\_ day of \_\_\_\_\_, 201\_\_.

\_\_\_\_\_  
United States District Judge

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

	)	
JASON MOUNT,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 16-2532 (CRC)
	)	
UNITED STATES DEPARTMENT	)	
OF HOMELAND SECURITY and	)	
JEH JOHNSON, Secretary of Homeland	)	
Security,	)	
	)	
Defendants.	)	
	)	

**DECLARATION OF JONATHAN PARNES (OFFICE OF INSPECTOR GENERAL), IN**

**SUPPORT OF DEFENDANT’S MOTION FOR SUMMARY JUDGMENT**

I, Jonathan Parnes, hereby declare as follows:

1. I am an Assistant Counsel to the Inspector General at the United States Department of Homeland Security Office of Inspector General (DHS OIG). I have worked for DHS OIG since March 2016.
2. As Assistant Counsel to the Inspector General, my responsibilities include providing legal counsel to the Inspector General and the various DHS OIG operating units on a wide range of legal issues, and providing legal advice and guidance to DHS OIG staff, including law enforcement agents, in connection with specific criminal, civil, and administrative investigations, audits, inspections, and program evaluations.
3. In addition, I have served as Agency Counsel on the above-captioned matter since it was filed, and I have provided legal advice on a number of other Freedom of Information Act

(FOIA) matters since I joined DHS OIG. Accordingly, I am familiar with DHS OIG's procedures in responding to FOIA requests. I am also familiar with Plaintiff's FOIA request.

4. I make this declaration in support of Defendant's motion for summary judgment, on the basis of my personal knowledge, information provided to me in my official capacity, and conclusions and determinations reached and made in accordance therewith.

1. **Administrative Action on Plaintiff's FOIA Request**

5. By email dated November 18, 2012, Plaintiff submitted to DHS OIG a FOIA request seeking "copies of any and all DHS OIG records and/or reports from January 1, 2002 through November 17, 2012 that contain information regarding an allegation that U.S. Immigration and Customs Enforcement, Homeland Security Investigations, Supervisory Special Agent Peter Edge lost his official credentials to a prostitute and the credentials had to be retrieved by local police." (Ex. A.)
6. On November 27, 2012, DHS OIG issued a Final Response to Plaintiff's FOIA request. In its response, DHS OIG refused to confirm or deny the existence of responsive records pursuant to Exemption 7(C) of the FOIA. (Ex. B.)
7. By letter dated January 24, 2013, Plaintiff submitted an appeal to DHS OIG's Final Response. In his appeal, Plaintiff claimed that "there is a strong overriding public interest that the documents be disclosed, if the alleged allegations [against the subject of the request] were substantiated by an investigation..." (Ex. C.)
8. DHS OIG affirmed its final response and denied Plaintiff's appeal in a letter dated June 30, 2014. (Ex. D.)

**II. FOIA Exemption Invoked by OIG**

**a. DHS OIG's Process in Responding to Requests for Records Involving Third Parties**

9. One of OIG's statutory responsibilities is to conduct investigations relating to DHS programs and operations. The OIG Office of Investigations (INV) investigates fraud, waste, and abuse involving DHS programs and operations, including alleged misconduct by DHS employees. Further, OIG is required to report "expeditiously" to the Attorney General whenever the Inspector General has reasonable grounds to believe there has been a violation of Federal criminal law. OIG's investigative records are maintained in EDS, which is a Privacy Act System of Records consistent with OIG's published system of records notice, which identifies these records as law enforcement records. *See* 74 Fed. Reg. 55569 (Oct. 28, 2009). Therefore, records from OIG INV are compiled for law enforcement purposes.
10. Exemption 7 of the FOIA permits the withholding of "law enforcement records or information" that "could reasonably be expected to constitute an unwarranted invasion of personal privacy." 5 U.S.C. § 552(b)(7)(C). A federal agency may refuse to confirm or deny the existence of investigative records when the disclosure of the mere fact that an individual is mentioned in an agency's law enforcement files carries a stigmatizing connotation. *See Wolf v. CIA*, 473 F.3d 370, 374 (D.C. Cir. 2007) (permitting the agency's refusal to acknowledge the existence of records when confirming or denying the existence of records would itself "cause harm cognizable under a FOIA exemption.")
11. An individual's association with a criminal investigation, as a suspect, victim, witness or source, tends to stigmatize that individual. A public acknowledgment of that association

with an investigation is likely to lift that association out of practical obscurity and into the forefront of public awareness, further aggravating the stigma associated with such a disclosure. Accordingly, under the restrictions of the Privacy Act, the DHS OIG is required to not acknowledge the existence of investigatory records pertaining to an individual without that individual's consent, proof of their death, or a showing of public interest. *See* 5 U.S.C. § 552a(b); 6 C.F.R. § 5.10(c) ("information will not be disclosed without that person's prior written consent... unless (1) the information is required to be released under the FOIA... or (2) in most circumstances, if the individual is deceased."); *U.S. Dep't of Justice v. Reporters Committee for Freedom of Press*, 489 U.S. 749, 775 (1989) (upholding FBI's refusal to confirm or deny whether it maintained criminal records on a third party.)

12. If a requester fails to submit a privacy waiver or proof of death of the subject, DHS OIG evaluates the public interest in acknowledging the existence (or lack thereof) of the requested records. To override a privacy intrusion, the requester must "(1) show that the public interest sought to be advanced is a significant one, an interest more specific than having the information for its own sake, and (2) show the information is likely to advance that interest." *Boyd v. Criminal Div. of DOJ*, 475 F.3d 381, 387 (D.C. Cir. 2007). This public interest is limited to shedding light on an agency's performance of its official duties. *See Providence Journal Co. v. U.S. Dep't of Army*, 981 F.2d 552, 568 (1st Cir. 1992). In instances where DHS OIG determines that there is an overriding public interest, such as, for example, where the alleged misconduct is closely tied to the individual's official duties and where that individual holds a senior position, DHS OIG will acknowledge the existence of such records and produce them as appropriate.

**b. Application of Exemption 7(C)**

13. Exemption 7(C) of the FOIA protects from disclosure records or information compiled for law enforcement purposes, but only to the extent that disclosure could reasonably be expected to cause one of the harms enumerated under Exemption 7. In this case, the information sought regarding an employee's alleged loss of credentials with a prostitute would have been compiled for law enforcement purposes. The disclosure of such information protected by Exemption 7(C), furthermore, could reasonably be expected to invade the personal privacy of the third party subject of the request.
14. In asserting this exemption, DHS OIG first considered whether any exceptions applied to the third party's cognizable privacy interest. DHS OIG determined that (1) the third party was a living DHS employee (2) who had not affirmatively waived his privacy rights and that (3) DHS OIG had not publicly confirmed that he was or is the subject of a federal investigation. Accordingly, DHS OIG determined that there was a cognizable privacy interest at stake.
15. In refusing to confirm or deny the existence of records pursuant to Exemption 7(C), DHS OIG balanced the privacy interests of the third party against any public interest in disclosure.
16. DHS OIG considers the public interest to be significant when the information would inform the public about the agency's performance of its mission and/or when the information would shed light on the agency's performance of its statutory duties. *See Providence Journal*, 981 F.2d at 568. In this instance, however, the requester articulated no public interest in disclosing whether a DHS employee was investigated for losing a credential when with a prostitute. DHS OIG determined that disclosing this information

shed little to no light on the agency's performance of its mission or statutory duties and was far outweighed by the third party's privacy rights. Accordingly, DHS OIG refused to confirm or deny the existence of records related to the underlying request.

17. DHS OIG Exemption 7(C) is meant to protect individuals from comment, speculation, and stigmatizing connotation associated with being identified in law enforcement records. As discussed above, DHS OIG invoked Exemption 7(C) to refuse to confirm or deny the existence of records responsive to Plaintiff's request. The disclosure of such information would shed little light on agency operations and would instead have the potential to subject the third party to harassment in the continued performance of his duties.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Dated: April 3, 2017

  
Jonathan Parnes  
Assistant Counsel to the Inspector General  
U.S. Department of Homeland Security

CONFIDENTIAL

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CONFIDENTIAL

I am pleased to say that the [redacted] project is well on its way to completion. The [redacted] team has made significant progress in [redacted] and [redacted]. The [redacted] team has also completed [redacted] and [redacted]. The [redacted] team has also completed [redacted] and [redacted]. The [redacted] team has also completed [redacted] and [redacted].

# Exhibit A

CONFIDENTIAL

**From:** [Jason Mount](#)  
**To:** [FOIA OIG](#)  
**Subject:** FOIA Request  
**Date:** Sunday, November 18, 2012 11:00:24 AM

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DHS OIG FOIA Staff:

I am seeking copies of any and all DHS OIG records and/or reports from January 1, 2002 through November 17, 2012 that contain information regarding an allegation that U.S. Immigration and Customs Enforcement, Homeland Security Investigations, Supervisory Special Agent Peter Edge lost his official credentials to a prostitute and the credentials had to be retrieved by local police. Please send the requested information to me at the below address.

Thank you,

Jason Mount

[REDACTED]  
[REDACTED]

Telephone [REDACTED]

Office of Inspector General  
Department of Justice  
Washington, DC 20535



Page 1 of 1

U.S. Department of Justice  
Office of Inspector General  
Washington, DC 20535

TO: Director, Office of Inspector General (OIG) - 20535  
FROM: [Illegible]

This report was prepared in accordance with the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. 552a). The information contained herein is for the use of the Department of Justice and is not to be disseminated outside the Department without the express written consent of the Inspector General.

The purpose of this report is to provide information on the activities of the [Illegible] and to identify any areas where the Department may be interested in the results of the investigation. The information contained herein is for the use of the Department of Justice and is not to be disseminated outside the Department without the express written consent of the Inspector General.

# Exhibit B

This report was prepared in accordance with the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. 552a). The information contained herein is for the use of the Department of Justice and is not to be disseminated outside the Department without the express written consent of the Inspector General.

U.S. Department of Justice  
Office of Inspector General  
Washington, DC 20535

This report was prepared in accordance with the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. 552a). The information contained herein is for the use of the Department of Justice and is not to be disseminated outside the Department without the express written consent of the Inspector General.



**Homeland  
Security**

*Office of Inspector General*

Washington, DC 20528

[www.oig.dhs.gov](http://www.oig.dhs.gov)

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Mr. Jason Mount  
[REDACTED]  
[REDACTED]

NOV 27 2012

SUBJECT: Freedom of Information Act Request No. 2013-023 – Final Response

Dear Mr. Mount:

This responds to your Freedom of Information Act (FOIA) request to the Department of Homeland Security Office of Inspector General (DHS-OIG, dated November 18, 2012, and seeking records on a specified Immigration and Customs Enforcement (ICE) employee (copy attached for reference). Your request was received in this office on November 19, 2012.

Your request seeks information concerning a third party. With respect to the named individual, lacking that individual's consent, an official acknowledgment of an investigation of the individual, or an overriding public interest, even to acknowledge the existence of records pertaining to this individual, could reasonably be expected to constitute an unwarranted invasion of their personal privacy. Accordingly, OIG refuses to confirm or deny the existence of responsive records pursuant to Exemption 7(C) of the FOIA, 5 U.S.C. § 552 (b)(7)(C). This response should not be taken as an indication that such records exist; rather it is our standard response to requesters seeking information or records pertaining to third parties.

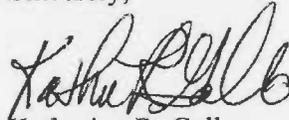
This is the final action this office will take concerning this matter. You have the right to appeal our response. Your appeal must be in writing and received within 60 days of the date of this response. Please address any appeal to:

FOIA/PA Appeals Unit  
DHS-OIG Office of Counsel  
STOP 2600  
245 Murray Drive, SW, Building 410  
Washington, DC 20528-2600

Both the envelope and letter of appeal must be clearly marked, "Freedom of Information Act/Privacy Act Appeal." Your appeal letter must also clearly identify the OIG's response. Additional information on submitting an appeal is set forth in the DHS regulations at 6 C.F.R. § 5.9. If you have any questions about this response please contact Kirsten Teal, FOIA/PA Disclosure Specialist, at 202-632-[REDACTED].

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 wish to contact OGIS, you may email that entity at [ogis@nara.gov](mailto:ogis@nara.gov) or call 877-684-6448.

Sincerely,

A handwritten signature in black ink, appearing to read "Katherine R. Gallo". The signature is fluid and cursive, with the first name being the most prominent.

Katherine R. Gallo  
Assistant Counsel to Inspector General

Exhibit C

The Office of Government Information Services (OGIS) has received your request for records under the Freedom of Information Act (FOIA). This request is being processed as a general request for information. If you wish to contact OGIS, you may call the toll-free number 1-877-684-6848.

*[Handwritten signature]*

Assistant Director of Information Systems

# Exhibit C

January 24, 2013

**Freedom of Information Act/Privacy Act Appeal – Request # 2013-023**

FOIA/PA Appeals Unit  
DHS-OIG Office of Counsel  
Stop 2600  
245 Murray Drive, SW, Building 410  
Washington, DC 20528-2600

RECEIVED  
JAN 29 2013  
BY: Teel  
DHS-OIG

DHS FOIA Appeals Staff:

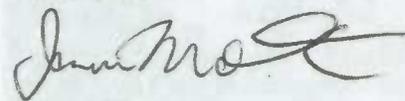
I wish to challenge the attached “Final Response” which indicates the requested documents cannot be provided to me since they involve a third party. The third party in question Peter Edge is a Government official and a Federal law enforcement officer. The alleged improprieties occurred while Mr. Edge was on official Government travel. Therefore I believe there is a strong overriding public interest that the documents be disclosed, if the alleged allegations were substantiated by an investigation the public has a right to know if a Federal law enforcement officer has engaged in criminal acts, as it negatively affects the officer’s credibility.

Additionally as a taxpayer, I should be able to view documents where the DHS-OIG allegedly investigated a Government employee who misused Government travel funds to facilitate a criminal act (allegedly prostitution); to ensure the DHS-OIG is taking the crime of misusing Government travel funds seriously.

In the alternative, produce the requested documents with contact information redacted. Exemption 7(c) protects the privacy interests of third parties only to the extent the interest “encompasses the individual’s control of information concerning his or her person, including address and other contact information.” Sensor Systems Support Inc. v. FAA, 851 F.Supp. 2d 321 (D. NH. 2012). Mr. Edge does not contain a valid privacy interest in his own illegal acts or omissions. Arguably, Mr. Edge does have a privacy interest in redacting contact information from the documents. Therefore, I request the information be produced in redacted form, to maintain Mr. Edge’s private contact information.

Please advise as to your decision?

Thank you,



Jason Mount

[Redacted]

Telephone ([Redacted])

RECEIVED  
APR 14 2017  
FBI - MEMPHIS  
157-016

MEMPHIS  
COMMUNICATIONS SECTION  
445 GAYLORD STREET  
MEMPHIS, TN 38103  
901-527-3200

I have reviewed the attached document and find it to be a true and correct copy of the original document. I have also reviewed the document and find it to be a true and correct copy of the original document. I have also reviewed the document and find it to be a true and correct copy of the original document.

# Exhibit D

As a result of the review, I have determined that the document is a true and correct copy of the original document. I have also reviewed the document and find it to be a true and correct copy of the original document.

The document is a true and correct copy of the original document. I have also reviewed the document and find it to be a true and correct copy of the original document. I have also reviewed the document and find it to be a true and correct copy of the original document.

  
Special Agent in Charge  
FBI - MEMPHIS  
445 Gaylord Street  
Memphis, TN 38103  
901-527-3200

157-016 (157-016)



**OFFICE OF INSPECTOR GENERAL**  
Department of Homeland Security

Washington, DC 20528 / [www.oig.dhs.gov](http://www.oig.dhs.gov)

JUN 30 2014

Mr. Jason Mount  
[REDACTED]  
[REDACTED]

Re: Appeal No.: 2013-A08  
Request No.: 2013-023

Dear Mr. Mount:

You appealed from the action of the Department of Homeland Security, Office of Inspector General (OIG), on your request for records relating to Peter Edge, a third party. A copy of your appeal is enclosed for your reference.

After carefully considering your appeal, I am affirming the OIG's action in refusing to confirm or deny the existence of any records pertaining to a third party. Without 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).

If you are dissatisfied with my action on your appeal, you may seek judicial review in accordance with the FOIA, 5 U.S.C. § 552(a)(4)(B).

Sincerely,

A handwritten signature in blue ink that reads "Jennifer Ashworth Kendrick".

Jennifer Ashworth Kendrick  
Assistant Counsel to the Inspector General