

CONFIDENTIALITY AGREEMENT

The U.S. Office of Special Counsel (OSC) directed its Request for Information and Documents to the Department of Homeland Security, Office of Inspector General (DHS OIG) on October 1, 2014. The DHS OIG responded on December 4, 2014 to all of the requests, except for Document Request Number 5. The DHS OIG supplemented its responses as new documents became available and provided periodic updates to OSC regarding the status of its response to Document Request Number 5, which requested "All emails between January 2013 to April 15, 2014, that were drafted, sent, or received by (1) (b)(6);(b)(7)(C) and (2) (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) using certain keywords.

The OIG wishes to fully comply with both of the above requests, while also protecting sensitive documents from further dissemination and publication. Therefore, OSC, by its undersigned attorney, and the DHS OIG, by its designated representative, consent to the following:

1. In response to OSC Document Request Number 5, the OIG will provide OSC with a DVD containing all responsive electronic communications between (b)(6);(b)(7)(C) and (b)(6);(b)(7)(C) for the relevant period. This information is covered by the Privacy Act of 1974, 5 U.S.C. § 552a, but may be disclosed to OSC as authorized by subsection (b)(7) of the Privacy Act. In addition, DHS OIG represents that the responsive documents contain extremely sensitive law enforcement information, including information about active law enforcement investigations, undercover operations, and investigative techniques.
 - a. The right of access to these documents is limited to OSC employees only.
 - b. OSC will use the documents for the sole purpose of investigating and resolving the allegations in OSC File No. (b)(6);(b)(7)(C). To illustrate, OSC may show relevant documents to witnesses or subject officials as exhibits during interviews or may refer to or summarize relevant portions of these documents in official correspondence concerning OSC File No. (b)(6);(b)(7)(C). OSC will retrieve all documents used as exhibits during interviews after they are shown to witnesses or subject officials. OSC may also use the relevant documents as exhibits attached to either a transcript of an interview with a witness or subject official or a report of prohibited personnel practices. Any such report of prohibited personnel practices, with attached exhibits, would typically be transmitted to DHS, the Office of Personnel Management, the Merit Systems Protection Board, and possibly the President of the United States, as provided by 5 U.S.C. § 1214(b)(2)(B). Prior to releasing documents pertaining to open DHS OIG investigations, OSC will consult with DHS OIG regarding the redaction of sensitive information.

- c. OSC will not post the documents from DHS OIG on its website or otherwise disseminate the documents, besides the instances listed herein, without the consent of the DHS OIG.¹
2. All persons having access to the materials subject to this agreement will ensure that no person other than OSC personnel obtains access to the materials and that there is no unauthorized use of the records or information covered by this agreement.
 3. At the conclusion of its investigation of OSC File No. (b)(6);(b)(7)(C) OSC will label the relevant portions of its investigative file so that the documents are clearly identified as sensitive and subject to this agreement.
 4. Both parties acknowledge that the information to be disclosed pursuant to this agreement, as DHS OIG has represented, is sensitive law enforcement information and public dissemination could cause great harm to DHS OIG's law enforcement operations. Therefore, OSC agrees to secure the information covered by this agreement and consult with DHS OIG to prevent its unauthorized dissemination.
 5. OSC enters into this agreement because of the sensitive nature of the documents and the circumstances of OSC File No. (b)(6);(b)(7)(C). This agreement pertains only to OSC File No. (b)(6);(b)(7)(C) and it does not serve as precedent to seek or justify similar terms in any subsequent case.

(b)(6);(b)(7)(C)

✓ Mariama Liverpool
Chief, Investigation and Prosecution Division-HQ
U.S. Office of Special Counsel

Date

3/4/2015

(b)(6);(b)(7)(C)

Laurel Koomis Rimmer
Counsel to the Inspector General
Department of Homeland Security

Date

3/4/15

¹ This agreement does not apply to a court order mandating disclosure. However, OSC will consult with DHS OIG in any such instance.