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August 27, 2014

**VIA FAX: 202-252-6047  
AND REGULAR MAIL**

Susan B. Gerson  
Assistant Director  
U.S. Department of Justice  
Executive Office for United States Attorneys  
Freedom of Information & Privacy Staff  
600 E Street, N.W., Suite 7300, Bicentennial Building  
Washington, DC 20530-0001

Re: Request No. FOIA-2014-02987  
Submitted April 7, 2014 on behalf of James Lutcher Negley

Dear Ms. Gerson,

On April 7, 2014, James Lutcher Negley submitted a written request for records to the Executive Office for United States Attorneys under the Freedom of Information Act/Privacy Act (FOIA/PA). On July 7, 2014, the attorney who submitted the FOIA/PA Request on behalf of Mr. Negley received a written acknowledgement of the request from you by e-mail. The acknowledgement identified the request as having been assigned number FOIA-2014-02987. On July 7, 2014, I notified your office by e-mail that I was substituting in as counsel for Mr. Negley in connection with his FOIA/PA Request.

According to 5 U.S.C. § 552(a)(3):

Except with respect to the records made available under paragraphs (1) and (2) of this subsection, and except as provided in subparagraph (E), each agency, upon any request for records which (i) reasonably describes such records and (ii) is made in accordance with published rules stating the time, place, fees (if any), and procedures to be followed, shall make the records promptly available to any person.

Ms. Susan B. Gerson

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The request was submitted more than four months ago. The records have not been made "promptly available", in violation of the quoted statute. Moreover, subparagraph (a)(6)(A) of § 552 provides that: Each agency, upon any request for records made under paragraph (1),(2), or (3) of this subsection, shall-

(i) determine within 20 days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of any such request whether to comply with such request and shall immediately notify the person making such request of such determination and the reasons therefor, and of the right of such person to appeal to the head of the agency any adverse determination;...

The 20 day period commences on the date on which the request is first received by the appropriate component of the agency, but no later than 10 days after the request is first received by any component of the agency that it designated in the agency's regulations to receive requests under this section. 5 U.S.C. §552(a)(6)(A).

Mr. Negley should have been informed as to the Agency's treatment of his request.

Since the July 7, 2014 acknowledgement of the request by your office, Mr. Negley has not received any disclosure or other contact from the Executive Office for United States Attorneys. He has received correspondence, both before and after your July 7 acknowledgment, from Mr. David M. Hardy of the Federal Bureau of Investigation. The two letters from Mr. Hardy bear two different reference numbers, both of which are different from the reference number included in your July 7, 2014 acknowledgement. Mr. Negley continues to wait for a response from the Executive Office for United States Attorneys.

If this is an instance in which the Executive Office for United States Attorneys has determined that all or part of the responsibility for responding to the request should be referred to another agency and such a referral has been made, Mr. Negley should be given notice by your office of the referral and he should be given the name of each component or agency to which the request has been referred. Mr. Negley has not been notified of any referral of all or part of his April 7, 2014 FOIPA Request to another component or agency. Such a notice should be given pursuant to 28 C.F.R. §16.4(f). That sub-section provides:

-Ms. Susan B. Gerson

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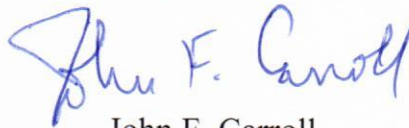
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(f) *Notice of referral.* Whenever a component refers all or any part of the responsibility for responding to a request to another component or agency, it ordinarily shall notify the requester of the referral and inform the requester of the name of each component or agency to which the request has been referred and of the part of the request that has been referred.

On behalf of Mr. Negley, I am requesting information on the status of Request No. FOIA-2014-02987 submitted on April 7, 2014 and directed to the Executive Office for United States Attorneys. Such a response from the Executive Office for United States Attorneys is long overdue.

Very Truly Yours,



John F. Carroll

JFC/avl