

# EXHIBIT 5

U.S. Department of  
Homeland Security

United States  
Coast Guard



Office of the Administrative Law Judge  
United States Coast Guard

2100 2nd Street S.W., Stop 7000  
Washington, DC 20593  
Staff Symbol: CG-00J  
Phone: 202-372-4446  
Fax: 202-372-4964  
Email: Joanna.M.Sherry@uscg.mil

5720  
March 25, 2013

Amie L. Stepanovich  
Associate Litigation Counsel  
Electronic Privacy Information Center  
1718 Connecticut Avenue, NW  
Suite 200  
Washington, DC 20009

RE: DHS FOIA APPEAL 2013-HQAP-00004

Dear Ms. Stepanovich:

This letter is in response to your letter dated September 13, 2012, appealing the Privacy Office's response to your July 10, 2012 FOIA request. Specifically, you alleged the Agency failed to conduct an adequate search for the full text of Standard Operating Procedure 303; the full text of the pre-determined "series of questions" that determine if a shutdown is necessary; and any executing protocols or guidelines related to the implementation of Standard Operating Procedure 303, distributed to DHS, other federal agencies, or private companies, including protocols related to oversight of shutdown determinations.

Pursuant to a memorandum of agreement, the United States Coast Guard Office of the Chief Administrative Law Judge is reviewing the FOIA appeals for the Department of Homeland Security General Counsel's office. Therefore, the Office of the Chief Administrative Law Judge will be rendering the official appeal decision on behalf of the Department of Homeland Security.

After a thorough review of your appeal and all applicable documents, the Agency's August 21, 2012 decision is being remanded. In the instant case, the record fails to demonstrate that the Privacy Office conducted an adequate search for responsive records within the Management Directorate (MGMT), Office of the Chief Information Officer (CIO), and the Under Secretary for Management (USM). Accordingly, the file is being remanded for further review.

Sincerely,

A handwritten signature in black ink, appearing to read "Joanna Sherry".

Joanna Sherry  
Attorney Advisor  
Office of the Chief Administrative Law Judge  
United States Coast Guard

Copy : James V.M.L. Holzer, I, CIPP/G, FOIA Officer  
Sent: Via first class mail to the above address.

U.S. Department of  
Homeland Security

United States  
Coast Guard



Office of the Administrative Law Judge  
United States Coast Guard

2100 Second Street, S.W.  
Stop 7000  
Washington, DC 20593-7000  
Staff Symbol: CG-00J  
Phone: (202) 372-4446  
Fax: (202) 372-4964  
Email: Joanna.M.Sherry@uscg.mil

5720  
March 25, 2013

## MEMORANDUM

From: Joanna M. Sherry *JA*  
Attorney Advisor

Reply to CG-00J  
Attn of: Joanna M. Sherry  
202-372-4440

To: James V.M.L. Holzer, I, MHR, CIPP/G  
Department of Homeland Security  
Privacy Office

Subj: DHS FOIA APPEAL 2013-HQAP-00004

1. This FOIA request is being remanded to your office for further review. The above-captioned FOIA request was filed on or about July 10, 2012 and appealed on July 20, 2012. Based on the record, it is unclear as to whether the Privacy Office performed an adequate search for responsive records.

2. If you have any questions feel free to contact me directly at 202-372-4446.

Enclosure: Remand Letter