

Appendix 7

Lillie Coney, EPIC, email to John Kropf, February 20, 2009 (2 pages)

From: "Kropf, John" <John.Kropf@dhs.gov>
Subject: **Re: Invitation: Privacy Coalition Meeting**
Date: February 20, 2009 12:03:15 PM EST
To: <coney@epic.org>, "Kropf, John W" <John.Kropf@dhs.gov>
Cc: "Levin, Toby M" <Toby.Levin@dhs.gov>, <rotenberg@epic.org>, "Hawkins, Sandra L." <Sandra.L.Hawkins@dhs.gov>

Lillie,
Thank you for the kind invitation. While I know she'll be very interested, Ms. Callahan does not have a formal start date with the Department. We'll present your invitation ready for her as soon as she formally enters on duty. Also copying Sandy Hawkins our Director of Administration.
Best,
John

Sent from my BlackBerry Wireless Handheld. Typed with all thumbs so please excuse typos.

----- Original Message -----

From: Lillie Coney <coney@epic.org>
To: Kropf, John W <John.Kropf@dhs.gov>
Cc: Toby Levin <Toby.Levin@dhs.gov>; Marc Rotenberg <rotenberg@epic.org>
Sent: Fri Feb 20 11:39:48 2009
Subject: Invitation: Privacy Coalition Meeting

Dear John,

I would like to extend an invitation to you and Mary Ellen Callahan, the incoming Chief Privacy Officer for the Department to meet with the Privacy Coalition. The Privacy Coalition is a nonpartisan coalition of consumer, civil liberties, educational, family, library, labor, and technology organizations that have agreed to the Privacy Pledge.

<http://privacycoalition.org>

EPIC hosts the meetings of the Privacy Coalition, a nonpartisan coalition of 40 organizations representing a broad range of policy issues, who share an interest in privacy issues. EPIC has hosted each of the previous Chief Privacy Officers to have served in the Department of Homeland Security.

The Privacy Coalition meets each month at EPIC's offices located at 1718 Connecticut Avenue, NW, Suite 200, Washington, DC. The meetings are informal opportunities to meet with advocacy organizations to discuss the privacy work of your office.

Meeting schedule for the next few months:

Friday, February 27, 2009 Noon-2PM
Friday, March 27, 2009 Noon-2PM
Friday, April 24, 2009 Noon-2PM
Friday, May 29, 2009 Noon-2PM
Friday, June 26, 2009 Noon-2M

Please let me know if you and Chief Privacy Officer Callahan will be able to attend one of the meetings.

Thank you,
Lillie Coney
Associate Director
EPIC
202-483-1140 x 111

Appendix 8

Lillie Coney, EPIC, letter to Mary Ellen Callahan, June 11, 2009 (1 page)

epic.org

June 11, 2009

Ms. Mary Ellen Callahan
Chief Privacy Officer
Department of Homeland Security
Washington, DC 20528

1718 Connecticut Ave NW
Suite 200
Washington DC 20009
USA
+1 202 483 1140 (toll)
+1 202 483 1240 (fax)
www.epic.org

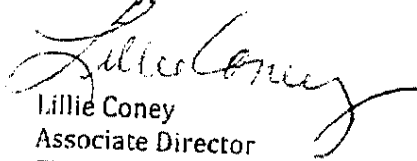
Dear Chief Privacy Officer Callahan,

I would like to re-extend an invitation to you to meet with the Privacy Coalition at one of our regular monthly meetings. Your office postponed the meeting we had on the schedule for May 29, 2009, and we were informed that you would be traveling at the time of the June meeting.

The schedule of Privacy Coalition meetings over the next few months is July 31, September 4, September 25, and October 30, 2009. The meeting is at Noon-2PM, with the first hour set aside for a guest speaker.

Let us know which date is best for rescheduling your meeting with the Privacy Coalition. Every Department of Homeland Security Chief Privacy Officer has routinely met with the Privacy Coalition at EPIC. I can be reached at 202-483-1140 ext. 111 or by e-mail at coney@epic.org.

Sincerely,


Lillie Coney
Associate Director
EPIC

Appendix 9

EPIC FOIA request for Mary Ellen Callahan's Calendar, June 25, 2009 (2 pages)



June 25, 2009

VIA FAX: (703) 235-0443

Ms. Catherine M. Papoi, FOIA Officer
 U.S. Department of Homeland Security
 Privacy Office
 Director, Disclosure & FOIA
 245 Murray Drive SW, Building 410
 STOP-0550
 Washington, DC 20528-0550

1718 Connecticut Ave NW

Suite 200

Washington DC 20009

USA

+1 202 483 1140 [tel]

+1 202 483 1248 [fax]

www.epic.org

RE: Freedom of Information Act Request

Dear Ms. Papoi,

This letter constitutes a request under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, and is submitted on behalf of the Electronic Privacy Information Center (EPIC).

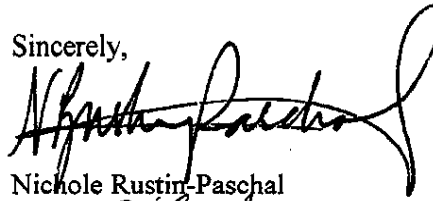
EPIC requests copies of the following agency records:

- 1) All agency records concerning appointments and meetings between Mary Ellen Callahan, Chief Privacy Officer for the Department of Homeland Security, and all nongovernmental individuals or entities from the date of her appointment, March 9, 2009, to the present. Such nongovernmental individuals and entities include, but are not limited to, trade associations, industry representatives, and/or business owners. Such records include, but are not limited to, appointment books, calendars, e-mails, agendas, and letters.
- 2) All agency records concerning Ms. Callahan's appointments and meetings for May 29, 2009. Such records include, but are not limited to, appointment books, calendars, e-mails, agendas, and letters.

For purposes of FOIA fee assessments, we request that EPIC be placed in the category of "news media" requester. The U.S. District Court for the District of Columbia has determined that EPIC qualifies for "news media," fee status, *EPIC v. Department of Defense*, 241 F.Supp.2d 5 (D.D.C. 2003). We also request a waiver of all processing fees, as release of this information will contribute significantly to the public's understanding of the activities and operation of the government.

Thank you for your consideration of this FOIA request. As the FOIA provides, I look forward to your response within 20 working days. Should you require additional information, please contact me at 202-483-1140 or by e-mail at Rustin-Paschal@epic.org.

Sincerely,



Nichole Rustin-Paschal
EPIC Clerk



John Verdi
Director, EPIC Open Government Project

Appendix 10

Vania T. Lockett, Acting Departmental Disclosure Officer, Letter to EPIC
acknowledging receipt of FOIA request for Mary Ellen Callahan's Calendar, July 2, 2009
(2 pages)



Homeland Security

Privacy Office, Mail Stop 0655

July 2, 2009

Mr. John Verdi
Director
EPIC Open Government Project
1718 Connecticut Avenue NW, Suite 200
Washington, D.C. 20009

Re: **DHS/OS/PRIV 09-765**

Dear Mr. Verdi:

This acknowledges receipt of your Freedom of Information Act (FOIA) request to the Department of Homeland Security (DHS), dated June 24, 2009, and received in this office on June 25, 2009. You requested copies of the following agency records:

1. All agency records concerning appointments and meetings between Mary Ellen Callahan, Chief Privacy Officer for the Department of Homeland Security, and all nongovernmental individuals or entities from the date of her appointment, March 9, 2009, to the present. Such nongovernmental individuals and entities include, but are not limited to, trade associations, industry representatives, and/or business owners. Such records include, but are not limited to, appointment books, calendars, e-mails, agenda, and letters.
2. All agency records concerning Ms. Callahan's appointments and meetings for May 29, 2009. Such records include, but are not limited to, appointment books, calendars, e-mails, agendas, and letters.

Due to the increasing number of FOIA requests received by this office, we may encounter some delay in processing your request. Per Section 5.5(a) of the DHS FOIA regulations, 6 C.F.R. Part 5, the Department processes FOIA requests according to their order of receipt. Although DHS' goal is to respond within 20 business days of receipt of your request, the FOIA does permit a 10-day extension of this time period. As your request seeks numerous documents that will necessitate a thorough and wide-ranging search, DHS will invoke a 10-day extension for your request, as allowed by Title 5 U.S.C. § 552(a)(6)(B). If you care to narrow the scope of your request, please contact our office.

As it relates to your fee waiver request, your request will be held in abeyance pending the quantification of responsive records. The DHS FOIA Regulations, 6 CFR § 5.11(k)(2), set forth six factors to examine in determining whether the applicable legal standard for a fee waiver has been met: (1) Whether the subject of the requested records concerns "the operations or activities of the government;" (2) Whether the disclosure is "likely to contribute" to an understanding of

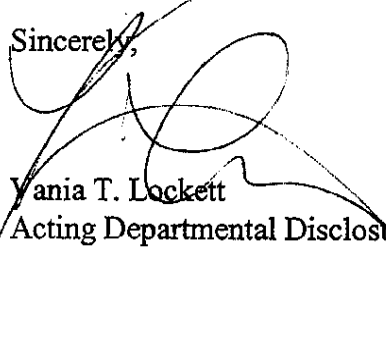
government operations or activities; (3) Whether disclosure of the requested information will contribute to the understanding of the public at large, as opposed to the individual understanding of the requestor or a narrow segment of interested persons; (4) Whether the contribution to public understanding of government operations or activities will be "significant;" (5) Whether the requester has a commercial interest that would be furthered by the requested disclosure; and (6) Whether the magnitude of any identified commercial interest to the requestor is sufficiently large in comparison with the public interest in disclosure, that disclosure is primarily in the commercial interest of the requestor. If any responsive records are located, we will consider these factors in our evaluation of your request for a fee waiver.

In the event that your fee waiver is denied, we shall charge you for records in accordance with the DHS Interim FOIA regulations as they apply to media requestors. As a media requestor you will be charged 10-cents a page for duplication, although the first 100 pages are free. You will be promptly notified once a determination is made regarding your fee waiver request.

We have queried the appropriate component of DHS for responsive records. If any responsive records are located, they will be reviewed for determination of releasability. Please be assured that one of the processors in our office will respond to your request as expeditiously as possible. We appreciate your patience as we proceed with your request.

Your request has been assigned reference number **DHS/OS/PRIV 09-765**. Please refer to this identifier in any future correspondence. You may contact this office at 866-431-0486.

Sincerely,



Yania T. Lockett
Acting Departmental Disclosure Officer

Appendix 11

Vania T. Lockett, Acting Departmental Disclosure Officer, Letter to EPIC regarding the referral of EPIC's FOIA request for Mary Ellen Callahan's Calendar to the Office of General Counsel, July 9, 2009 (1 page)



Homeland Security

Privacy Office, Mail Stop 0655

July 9, 2009

Mr. John Verdi
Director
EPIC Open Government Project
1718 Connecticut Avenue NW, Suite 200
Washington, D.C. 20009

Re: **DHS/OS/PRIV 09-765**

Dear Mr. Verdi:

This is an update to our July 2, 2009 acknowledgement letter of your Freedom of Information Act (FOIA) request to the Department of Homeland Security (DHS), dated June 24, 2009, and received in this office on June 25, 2009. You had requested copies of the following agency records:

1. All agency records concerning appointments and meetings between Mary Ellen Callahan, Chief Privacy Officer for the Department of Homeland Security, and all nongovernmental individuals or entities from the date of her appointment, March 9, 2009, to the present. Such nongovernmental individuals and entities include, but are not limited to, trade associations, industry representatives, and/or business owners. Such records include, but are not limited to, appointment books, calendars, e-mails, agenda, and letters.
2. All agency records concerning Ms. Callahan's appointments and meetings for May 29, 2009. Such records include, but are not limited to, appointment books, calendars, e-mails, agendas, and letters.

During our search for records within the Privacy Office, we identified records that we are transferring to the FOIA Officer, Charlie Borrero, at the DHS Office of the General Counsel (OGC) for processing and direct response to you. You may contact that office in writing at U.S. Department of Homeland Security, Office of the General Counsel, Washington, D.C. 20528 or via telephone at 202-282-9822.

If you need to contact this office again concerning your request, please refer to **DHS/OS/PRIV 09-765**. This office can be reached at 703-235-0790.

Sincerely,

A handwritten signature in black ink, appearing to read "Vania T. Lockett".

Vania T. Lockett
Acting Departmental Disclosure Officer

Appendix 12

David J. Palmer, Deputy Associate General Counsel, DHS Office of the General Counsel,
First Interim Response to EPIC FOIA's request for Mary Ellen Callahan's Calendar, July
30, 2009 (2 pages)



Homeland Security

July 30, 2009

Mr. John Verdi
Director, EPIC Open Government Project
EPIC
1718 Connecticut Avenue, NW
Washington, DC 20009

Re: **PRIV 09-765**

Dear Mr. Verdi:

This is the first interim response to your Freedom of Information Act (FOIA) request to the U.S. Department of Homeland Security, dated June 25, 2009. On behalf of the Electronic Privacy Information Center (EPIC), you requested copies of the following agency records:

- 1) All agency records concerning appointments and meetings between Mary Ellen Callahan, Chief Privacy Officer for the Department of Homeland Security, and all nongovernmental individuals or entities from the date of her appointment, March 9, 2009, to the present. Such nongovernmental individuals and entities include, but are not limited to, trade associations, industry representatives, and/or business owners. Such records include, but are not limited to, appointment books, calendars, e-mails, agendas, and letters.
- 2) All agency records concerning Ms. Callahan's appointments and meetings for May 29, 2009. Such records include, but are not limited to, appointment books, calendars, e-mails, agendas, and letters.

Due to the voluminous amount of records that must be located, compiled, and reviewed, we need additional time to search for possible additional responsive records and, to the extent that more responsive records are found, to make a determination about production of those records. Therefore, we are providing an interim response to your request at this time. Additional searches are being conducted, and if more responsive documents are found as a result of those searches, we will provide them to you as soon as possible. As we discussed yesterday, I expect to complete my review on or before August 7, 2009.

In our preliminary search for records responsive to the multi-part request, we have located a total of 16 pages. Of those pages, we have determined that they can be partially released but with certain information withheld pursuant to Title 5 U.S.C. § 552 (b)(2)(low), and (b)(6).

Explanations used in the withholding are described below.

FOIA Exemption 2(low) protects information applicable to internal administrative personnel matters to the extent that the information is of a relatively trivial nature and there is no public interest in the document.

FOIA Exemption 6 exempts from disclosure personnel or medical files and similar files the release of which would cause a clearly unwarranted invasion of personal privacy. This requires a balancing of the public's right to disclosure against the individual's right to privacy. The privacy interests of the individuals in the records you have requested outweigh any minimal public interest in disclosure of the information. Any private interest you may have in that information does not factor in the aforementioned balancing test.

We have redacted information that was not responsive to your request.

Based on our discussion, I understand that EPIC plans to withhold any appeal until the production is complete. When all responsive records have been released to you, you will be provided with information pertaining to your appeal rights.

If you need to contact our office again about this matter, please refer to PRIV 09-765. If you have any questions, please contact me at (202) 282-9735.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Palmer', with a long horizontal flourish extending to the right.

David J. Palmer
Deputy Associate General Counsel - Legal Counsel
Office of the General Counsel
Department of Homeland Security