

**Exhibit 7**

**Declaration of Arleta D. Cunningham  
Acting Freedom of Information/Privacy Act Officer  
USMS**

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF COLUMBIA

DULCIDIO QUIRINDONGO )  
Plaintiff, )  
 )  
 )  
v. ) CV 04-0211 (RCL)  
 )  
 )  
DRUG ENFORCEMENT )  
ADMINISTRATION, ET. AL )  
Defendant, )  
 )

**DECLARATION**

I, Arleta D. Cunningham, hereby make the following Declaration under penalty of perjury pursuant to 28.U.S.C. § 1746.

1. I am the Acting Freedom of Information/Privacy Act Officer, United States Marshals Service (USMS), assigned to the Headquarters, Office of General Counsel (OGC), in Arlington, Virginia. I am experienced with the procedures for responding to requests made pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, and the Privacy Act (PA), 5 U.S.C. § 552a, for information maintained in the records and files of the USMS. The USMS Headquarters Office of General Counsel is responsible for processing all FOI/PA requests made to any USMS office located throughout the United States pursuant to USMS policy.

**Background**

2. On October 30, 2003, the USMS Office of General Counsel (OGC) received a letter dated October 21, 2003, by which plaintiff requested a copy of all records pertaining to him.

(See Exhibit A)

3. On November 5, 2003, the USMS acknowledged receipt of plaintiff's request and advised him that a search for responsive documents had commenced, and he would be contacted when the processing of his request was completed. (See Exhibit B)

4. A search for records pertaining to plaintiff was conducted in the USMS district offices for the locations identified in his request, i.e., the Middle, Western, and Eastern Districts of Pennsylvania, the District of New Jersey, the Eastern District of Texas, the Western District of Oklahoma, the District of Puerto Rico, and the Southern District of Indiana.

5. As a result of this search, 20 pages of records pertaining to plaintiff were located by the USMS Office in the Eastern District of Pennsylvania in the Prisoner Processing and Population Management/Prisoner Tracking System (PPM/PTS), JUSTICE/USM-005, and the Warrant Information Network (WIN), JUSTICE/USM-007, systems of records. Records maintained in these systems are compiled for law enforcement purposes in connection with the USMS receipt, processing, transportation and custody of federal prisoners, the execution of Federal arrest warrants, and the investigation of fugitive matters.

6. By letter dated January 22, 2004, the USMS responded to plaintiff's request and informed plaintiff that after conducting a search of its files, 20 pages of records had been located which were indexed to his name. Two of these pages originated with the Bureau of Prisons (BOP) and were referred to that agency for disclosure determination and direct response to plaintiff in accordance with 28 C.F.R. § 16.42(c). The USMS released seventeen (17) pages in full to plaintiff and one page with minimal deletions pursuant to exemption (b)(7)(C) of the FOIA, 5 U.S.C. § 552 (b)(7)(C). (See Exhibit C)

7. By letter dated February 28, 2004, plaintiff filed an administrative appeal of the USMS action on his request to the Department of Justice, Office of Information and Privacy (OIP).

Plaintiff's administrative appeal letter asserted that the USMS had not processed his FOIA/PA request. (See Exhibit D)

8. By letter dated March 25, 2004, OIP acknowledged receipt of plaintiff's appeal. (See Exhibit E)

9. On March 24, 2004, the USMS received two pages of material located by the Executive Office for U.S. Attorneys during the processing of plaintiff's Freedom of Information/Privacy Act request to that agency. These two pages originated with and/or contained information furnished by the USMS and were referred to the USMS for disclosure determination and direct response to plaintiff. (See Exhibit F)

10. By letter dated June 8, 2004, the USMS released two pages of material to plaintiff with deletions pursuant to exemptions (b)(5) and (b)(7)(C) of the FOIA, 5 U.S.C. §§ (b)(5), (b)(7)(C). (See Exhibit G)

#### **Exemptions Applied to Withholding Information from Documents Disclosed**

11. Exemption (b)(5) permits an agency to withhold information contained in interagency or intra-agency correspondence which would not be routinely available by law to a private party in litigation with the agency. 5 U.S.C. § 552(b)(5). This exemption was applied to materials protected by the deliberative process privilege which consists of predecisional information which would reveal frank opinions and recommendations among USMS personnel in deliberating the pros and cons of selling certain property to prospective purchasers. Disclosure

of this information would inhibit these candid discussions in future among USMS personnel involved in this decision-making process and would hamper the ability of the Government to gain the best advantage in the sale of forfeited property. 5 U.S.C. § 552(b)(5).

12. Exemption (b)(7)(C) allows an agency to withhold records or information compiled for law enforcement purposes to the extent that production could reasonably be expected to constitute an unwarranted invasion of personal privacy. 5 U.S.C. § 552(b)(7)(C). This exemption was applied to withhold only the **names of and or/information pertaining to federal law enforcement personnel, the names of and/or information pertaining to other prisoners, and names and/or information pertaining to third party individuals.**

13. A description of the three pages released to plaintiff with excisions made to certain documents pursuant to 5 U.S.C. § 552(b)(5) and (b)(7)(C) is provided as follows:

- |                                 |   |   |
|---------------------------------|---|---|
| <b>Item 1:</b><br>Exemption(s): | <b>USMS-312, Personal History</b> dated August 19, 2002<br>7(C) – name and information of another prisoner.   | 1 |
| <b>Item 2:</b><br>Exemption(s): | <b>Memorandum</b> dated August 16, 1999<br>7(C) – name and telephone extension of law enforcement personnel.<br>(b)(5) – information protected by deliberative process privilege. | 1 |
| <b>Item 3:</b><br>Exemption(s): | <b>Memorandum</b> dated October 31, 2000<br>7(C) – name and telephone extension of law enforcement personnel, and the name of a non-federal government employee.                  | 1 |

14. In summary, of the 22 pages of documents located pertaining to plaintiff, 17 pages were released to plaintiff in their entirety, two pages were referred to BOP for disclosure determination and direct response to plaintiff and the remaining three pages were released to plaintiff with minimal deletions as described above. No additional documents pertaining to

plaintiff were located and all non-exempt portions of responsive documents have been segregated and released to him.

I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct to the best of my knowledge, information, and belief.

October 8, 2004

Executed on:

Arleta D. Cunningham

ARLETA D. CUNNINGHAM

To: Director

Date: October 21, 2003

United States Marshals Service  
United States Department of Justice  
Washington, D. C. 20530

RECEIVED  
GENERAL COUNSEL  
03 OCT 30 AM 11:04  
U.S. MARSHALS SERVICE

Dear Sir:

This is a request under the Freedom of Information Act.

I request a copy of any and all documents, records and information that any part of your agency has or had in its possession that is in any way connected to, related to, or even remotely in reference to my name.

The following particulars may assist you in your search :  
I will pay fees. Search Skullkill, Fairington, Terre Haute,

Ok City, Beaumont, Texas; and Puerto Rico and all of Pennsylvania.

My biographical data is as follows:

FULL NAME: DULCIDIO JOSE QUIRINDONGO

DATE OF BIRTH : October 28, 1954

PLACE OF BIRTH: Peñuelas, Puerto Rico

SOCIAL SECURITY NUMBER: 583-86-0469

I declare under penalty of perjury that the aforementioned data is that of my person and that the signature below is my true and correct signature under oath.

Executed this 21st day of October, 2003

(28 USC Section 1746)

By X Dulcidio Quirindongo

DULCIDIO QUIRINDONGO

Peison Number 51943-066

United States Penitentiary  
Box 26030  
Beaumont, Texas 77720

Exhibit  
A



United States Marshals Service

Office of General Counsel

Washington, DC 20530-1000

November 5, 2003

Dulcidio Quirindongo,  
Reg. NO. 51943-066  
United States Penitentiary  
Box 26030  
Beaumont, TX 77720

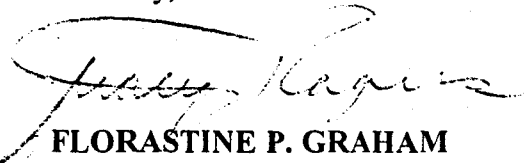
Re: **Freedom of Information/Privacy Act Request No. 2003USMS6361**

Dear Mr. Quirindongo:

The United States Marshals Service is in receipt of your Freedom of Information Act request for records maintained by this agency. We have commenced a search for documents and will contact you when our processing is complete.

Although we are unable to determine at this time the amount of fees to be charged to you, if any, the filing of your request constitutes your agreement to pay all applicable fees that may be charged under 28 C.F.R § 16.10 or § 16.47, up to \$25.00. We will notify you as soon as practicable if the estimated or actual fee for satisfying your request exceeds \$25.00.

Sincerely,

  
**FLORASTINE P. GRAHAM**  
FOI/PA Officer  
Office of General Counsel

*Handwritten initials*  
B





United States Marshals Service

Office of General Counsel

Washington, DC 20530-1000

January 22, 2004

Dulcidio Quirindongo  
Reg. No. 51943-066  
United States Penitentiary  
Box 26030  
Beaumont, TX 77720

**Re: Freedom of Information/Privacy Act Request No. 2004USMS6361**  
**Subject: Self**

Dear Mr. Quirindongo:

The United States Marshals Service is responding to your request for certain records in this agency's files pertaining to you.

Pursuant to your request,  the Marshals Service conducted a search of its files and located documents which are responsive, or  the Marshals Service received documents referred from another agency for disclosure determination and direct response to you. The paragraphs checked below apply:

Documents are being released to you; however, certain documents or portions of these documents are being withheld pursuant to the Freedom of Information Act, 5 U.S.C. § 552, and/or the Privacy Act, 5 U.S.C. § 552a. Please refer to the list on page 2 of this letter for a description of the information being withheld and the basis for withholding.

Our search located documents which originated with or contain information which originated with the (an)other agency(ies).

Information contained in Marshals Service records which originated with (an)other agency(ies) and a copy of your request have been referred to the originator(s) for consultation in accordance with 28 C.F.R. § 16.4 and/or § 16.42. The Marshals Service will correspond with you again upon completion of this consultation.

Records which originated with the (an)other agency(ies) and a copy of your request have been referred to that agency for disclosure determination and direct response to you in accordance with 28 C.F. R. § 16.4 and/or § 16.42.

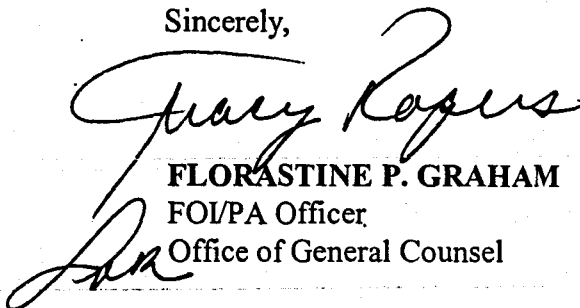
Exhibit  
C

Your request is being denied pursuant to the Freedom of Information Act and/or Privacy Act exemptions identified by mark(s) on the following list.

If you are dissatisfied with my action on this request, you may appeal from this (partial) denial by writing to the Co-Director, Office of Information and Privacy, United States Department of Justice, Room 570, Flag Building, Washington, D.C. 20530, within 60 days of your receipt of this letter. Both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal." In the event you are dissatisfied with the results of any such appeal, judicial review will thereafter be available to you in the United States District Court for the judicial district in which you reside or have your principal place of business, or in the District of Columbia.

The enclosed material is provided for your further information.

Sincerely,



**FLORASTINE P. GRAHAM**  
FOI/PA Officer  
Office of General Counsel

Enclosures

Number of Documents Located or referred from another agency: 20  
Number of Documents Released: 18  
Number of Documents Referred: 2  
Number of Documents Withheld:

Freedom of Information Act  
5 U.S.C. 552

Privacy Act  
5 U.S.C. § 552a

Exemptions cited

Description of Information Withheld:

|   |   |
|---|---|
| <input type="checkbox"/> (b)(1) <input type="checkbox"/> (b)(2) <input type="checkbox"/> (b)(3) <input type="checkbox"/> (d)(5) <input type="checkbox"/> (j)(2) | <input type="checkbox"/> Administrative marking(s)  |
| <input type="checkbox"/> (b)(4) <input type="checkbox"/> (b)(5) <input type="checkbox"/> (b)(6) <input type="checkbox"/> (k)(1) <input type="checkbox"/> (k)(2) | <input checked="" type="checkbox"/> Names of and/or information on government employees       |
| <input type="checkbox"/> (b)(7)(A) <input type="checkbox"/> (b)(7)(B) <input type="checkbox"/> (k)(5) <input type="checkbox"/> (k)(6)                           | <input type="checkbox"/> Names of and/or information pertaining to third-party individual(s)  |
| <input checked="" type="checkbox"/> (b)(7)(C) <input type="checkbox"/> (b)(7)(D)  | <input checked="" type="checkbox"/> Names of and/or information pertaining to other prisoners |
| <input type="checkbox"/> (b)(7)(E) <input type="checkbox"/> (b)(7)(F)   | <input type="checkbox"/> Confidential source information                                      |
|   | <input type="checkbox"/> Other:   |

**FREEDOM OF INFORMATION ACT**  
**5 U.S.C. § 552**

Disclosure mandates of the Freedom of Information Act do not apply to matters that are -

- (b)(1) specifically authorized and properly classified pursuant to an Executive order to be kept secret in the interest of national defense or foreign policy;
- (b)(2) related solely to the internal rules and practices of an agency;
- (b)(3) specifically exempted from disclosure by another statute;
- (b)(4) privileged or confidential trade secrets and commercial or financial information obtained from a person;
- (b)(5) Predecisional information, including attorney work-product and attorney-client material, reflective of the deliberative process and contained in inter-agency or intra-agency correspondence which is not routinely available to a private party in litigation with an agency;
- (b)(6) personnel, medical and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;
- (b)(7) records or information compiled for law enforcement purposes to the extent that the production of such records or information (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by a criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source, (E) would disclose techniques and procedures for law enforcement investigation or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or (F) could reasonably be expected to endanger the life or physical safety of any individual.

**PRIVACY ACT**  
**5 U.S.C. § 552a**

- (d) (5) Nothing in the Privacy Act shall allow an individual access to any information compiled in reasonable anticipation of civil action or proceeding.

**Further, an agency may exempt from the access provisions and other provisions of the Privacy Act**

- (j)(2) Material related to the enforcement of criminal laws including efforts to prevent, control or reduce crime or to apprehend criminals;

- (k)(1) Materials specifically authorize and properly classified pursuant to an Executive order to be kept secret in the interest of national defense or foreign policy;
- (k)(2) Materials compiled during civil investigations for law enforcement purposes:
  - (k)(5) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information, the disclosure of which would reveal the identity of a source who furnished information to the Government under an express promise that the source's identity would be held in confidence, or pursuant to an implied promise of confidentiality if such information was furnished prior to September 27, 1975.
  - (k)(6) Testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service.

Rec'd 3-11-04

04-1330

PA  
①

USMS  
1/27/04  
4/2/03

Partial  
release

~~Work~~

Director  
Office of Information & Privacy  
Department of Justice  
FLAG BUILDING, Suite 570  
Washington, D. C. 20530

February 28, 2004

RE: FOIA to MARSHALS No. 2003USMS6361

Dear Sir:

This is an appeal under the Freedom of Information Act.

By letter dated October 21, 2003 to the Marshal Service I requested information pertaining to myself.

I have yet to receive the information.

I appeal this stelthy denial.

Sincerely,

Dulcidio Quirindongo *QYP*  
51943-066  
United States Penitentiary  
Box 26030  
Beaumont, Texas 77720

cc : file

OFFICE OF INFORMATION  
AND PRIVACY

MAR 11 2004

RECEIVED

Exhibit  
1



U.S. Department of Justice

Office of Information and Privacy

Telephone: (202) 514-3642

Washington, D.C. 20530

MAR 25 2004

Mr. Dulcideo Quirindongo  
Register No. 51943-066  
United States Penitentiary  
P.O. Box 26030  
Beaumont, TX 77720

Re: Request No. 2003USMS6361

Dear Mr. Quirindongo:

This is to advise you that your administrative appeal from the action of the United States Marshals Service on your request for information from the files of the Department of Justice was received by this Office on March 11, 2004.

The Office of Information and Privacy, which has the responsibility of adjudicating such appeals, has a substantial backlog of pending appeals received prior to yours. In an attempt to afford each appellant equal and impartial treatment, we have adopted a general practice of assigning appeals in the approximate order of receipt. Your appeal has been assigned number **04-1330**. Please mention this number in any future correspondence to this Office regarding this matter.

We will notify you of the decision on your appeal as soon as we can. The necessity of this delay is regretted and your continuing courtesy is appreciated.

Sincerely,

Priscilla Jones  
Administrative Specialist

RECEIVED  
GENERAL INVESTIGATIVE  
DIVISION  
MAR 29 AM 9:02  
U.S. MARSHALS SERVICE

ms

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U.S. Department of Justice

Executive Office for United States Attorneys  
Freedom of Information/Privacy Act Unit  
600 E Street, N.W., Room 7300  
Washington, D.C. 20530  
202-616-6757 Fax 202-616-6478

22

To: United States Marshal Service

Request Number: 03-3174 Requester: Dulcidio J. Quirindongo

Subject of Request: Self

Dear FOIA/PA Contact Person:

The enclosed Freedom of Information Act/Privacy Act request was received by this office. The paragraphs checked below apply:

1. [ ] As your office may have records responsive to this request, we are referring it to you for a direct response to the requester.
2. [XX] While processing this request, we located the enclosed records which originated in your office. These records were found in the U.S. Attorney's Office files and may or may not be responsive to the request. We are referring 2 page(s) of material and a copy of the request to you for a direct response to the requester. (please see attached Continuation Sheet).
3. [ ] This office is also providing \_\_\_\_\_ pages of documents under a cover page titled "Background Information". The attached records are provided to your agency to assist in processing your records. These records are not part of the referred records and should be kept as administrative records in this referral.

A copy of our final determination letter is also enclosed for your reference. Please note we have charged the requester \$21.40 for search/duplication costs incurred in the processing of this request.

We have notified the requester of this referral. If you have any questions about this matter, please contact the FOIA/PA processor named below.

Sincerely,

*Marie A. O'Rourke* (Handwritten signature)

Marie A. O'Rourke  
Assistant Director

Name: Nikki Gramian  
Phone: (202) 353-3042

U.S. DEPARTMENT OF JUSTICE  
FREEDOM OF INFORMATION ACT  
MAY 21 10 59 AM '07

Handwritten initials and 'F' at the bottom right corner.



United States Marshals Service

Office of General Counsel

Washington, DC 20530-1000

June 8, 2004

Dulcidio Quirindongo  
Reg. No. 51943-066  
United States Penitentiary  
Box 26030  
Beaumont, TX 77720

**Re: Freedom of Information/Privacy Act Request No. 2004USMS7064**

Dear Mr. Quirindongo:

The United States Marshals Service received document(s) referred from the Executive Office for U.S. Attorneys for disclosure determination and direct response to you. The paragraphs checked below apply:

All documents located or  all document(s) referred from another agency are being released to you without deletions.

Documents are being released to you; however, certain documents or portions of these documents are being withheld pursuant to the Freedom of Information Act, 5 U.S.C. § 552, and/or the Privacy Act, 5 U.S.C. § 552a. Please refer to the list on page 2 of this letter for a description of the information being withheld and the basis for withholding.

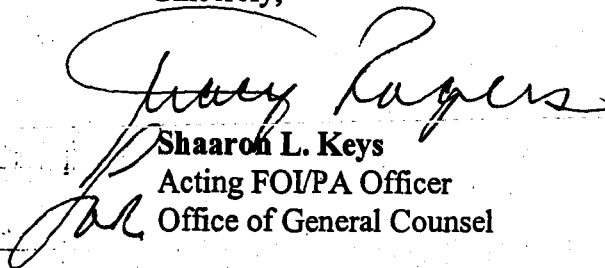
If you are dissatisfied with my action on this request, you may appeal from this (partial) denial by writing to the Co-Director, Office of Information and Privacy, United States Department of Justice, Room 570, Flag Building, Washington, D.C. 20530, within 60 days of your receipt of this letter. Both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal." In the event you are dissatisfied with the results of any such appeal, judicial review will thereafter be available to you in the United States District Court for the

7/1/04  
G

judicial district in which you reside or have your principal place of business, or in the District of Columbia.

[X] The enclosed material is provided for your further information.

Sincerely,

  
Shaaron L. Keys  
Acting FOI/PA Officer  
Office of General Counsel

Enclosures

Number of Documents Located or referred from another agency: 1  
Number of Documents Released: 1  
Number of Documents Referred:  
Number of Documents Withheld:

Freedom of Information Act  
5 U.S.C. 552

Privacy Act-  
5 U.S.C. § 552a

Exemptions cited

Description of Information Withheld:

(b)(1)  (b)(2)  (b)(3)  (d)(5)  (j)(2)  
 (b)(4)  (b)(5)  (b)(6)  (k)(1)  (k)(2)  
 (b)(7)(A)  (b)(7)(B)  (k)(5)  (k)(6)  
 (b)(7)(C)  (b)(7)(D)  
 (b)(7)(E)  (b)(7)(F)

Administrative marking(s)  
 Names of and/or information on government employees  
 Names of and/or information pertaining to third-party individual(s)  
 Names of and/or information pertaining to other prisoners  
 Confidential source information  
 Other: