



Gabe Roth <gabe@fixthecourt.com>

Fwd: [EXTERNAL] Fwd: Fix the Court v. DOJ. 23-133.

Thu, Feb 22, 2024 at 9:20 AM

[REDACTED]

From: "Duffey, Thomas (USADC)" [REDACTED]
Date: February 19, 2024 at 9:04:01 AM EST
To: David Sobel [REDACTED]
Subject: RE: [EXTERNAL] Fwd: Fix the Court v. DOJ. 23-133.

Hello Dave. Here are the responses, highlighted, to your inquiries. Regards, Tom

Inquiry #1:

First, the documents plaintiff received include two different formats of reports. One of them is the standard one they've received for prior FOIAs, the "Request for Special Assignments Resources." The other, the "JSD Review," looks like a printout of a screenshot, as opposed to the full text of a report, meaning that certain details are not included since they're below the end of the scroll-down (see the attachments for illustration).

USMS Response: Although the format of these two 535 is different, this is in essence the same type of document. The screenshot printout contains the same information as the report format. You indicated that, with respect to the screenshot printouts, there are instances information is missing because it appears below the end of the scroll-down. The USMS is identifying those reports and will attempt to locate better copies of those reports where the information might be missing due to the scroll-down feature.

Inquiry #2:

Second, there are no reports from travel taken by Chief Justice Roberts. During the nearly five years in question, Roberts had speaking engagements in West Virginia, Minnesota, Tennessee, New York, Connecticut, Georgia and Colorado, plus, per local blog posts, visits to his vacation home in Maine. We know, for example, there were deputy marshals at the Minnesota event, since in 2019 plaintiff submitted an open records request to the university there and that fact was mentioned in the documents they received.

USMS Response: The USMS does not provide a protective posture for Chief Justice Roberts' travel. The Supreme Court of the United States Police Department has the primary jurisdiction regarding the safety, security, and protective posture of the Supreme Court of the United States. If the Supreme Court of the United States Police Department requests assistance from the US Marshals Service, the USMS will then provide a protective posture. If the USMS was at an event in Minnesota, then it is very likely other members of the federal judiciary were also present at the event in Minnesota.

Inquiry #3:

Third, there are no reports from travel taken by Justice Thomas. During the nearly five years in question, there were speaking or teaching engagements in Kansas, Florida, Texas, Georgia, California, Michigan, Connecticut, Utah, Indiana, New Jersey, plus, per press reports, vacations to Utah and West Virginia.

USMS Response: The USMS has no USM 535 – Request for Special Assignment Resources for Justice Thomas for the time period requested (January 1, 2018, through September 30, 2022). As noted above, the Supreme Court of the United States Police Department has the primary jurisdiction regarding the safety, security, and protective posture of the Supreme Court of the United States.

Inquiry #4:

Fourth, for the justices whose trips are typically included in the USMS documents, there are some missing

ones. Justice Breyer usually asked deputy marshals for assistance during his frequent travel between Washington, D.C., and the Boston area, and yet there appears to be no report for his March 2018 travel to Boston for a Kennedy Institute appearance. Justice Sotomayor typically asked deputy marshals for assistance during her book tour events, and yet there were no reports for her Sept. 2018 trip to Texas. Justice Gorsuch often had deputy marshals accompany him during vacations to Colorado, so it seems odd that he apparently opted not to ask for coverage for speaking engagements in New Jersey (Jan. 2018), Iowa (Aug. 2018), Colorado (Aug. 2018 and Feb. 2020), Texas (two in Sept. 2019) and California (Sept 2019).

USMS Response: As noted above, if the Supreme Court of the United States Police Department did not submit a request for assistance to the USMS, then the security for these events was provided by the Supreme Court and not the USMS.

Inquiry #5:

Fifth and finally, plaintiff was expecting 4,683 pages and to date has only received 4,042. Even if we include the pages missing due to the change in reporting post-May 2022, that's still more than 500 pages missing.

USMS Response: As stated in the JSRs dated March 17, 2023, and July 26, 2023, the USMS located "approximately 4,683 pages of potentially responsive records." Please note that initially there was a 3-page report for the 2019 records associated with Justice Kavanaugh. However, upon further review, the USMS located a better copy of this record which is a 5-page report. Accordingly, the final count of potentially responsive records was 4,685 pages; this total did not include the post-June 1, 2022, email records. 4,685 was the total page count of potentially responsive records, prior to the pages being processed. Upon processing the 4,685 pages, the USMS marked 579 pages as duplicates and deemed 64 pages as not responsive (these are mostly blank pages); these 643 pages were not produced. $579 \text{ (dups)} + 64 \text{ (not responsive)} = 643$. $4685 - 643 = 4,042$ the total of pages you received.