



Patricia Mellen <pat@patmellenlaw.com>

Update Request - Rocky Flats Special Grand Jury 89-1

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To: Patricia Mellen <pat@patmellenlaw.com>

Wed, Jul 24, 2019 at 4:13 PM

Hello Pat. My apologies for not being in touch with you for some time.

Here is the update. As best as I can tell, the third-party business records obtained via grand jury subpoena from the original Rocky Flats grand jury consisted of somewhere between 62 and 65 boxes of documents. Our office had custody of them through at least 2004, when then-U.S. Attorney John Suthers wrote a letter to Congressman Mark Udall indicating that the boxes were still at our office. That is the latest date on which I have been able to verify that the boxes were still physically in the custody of the USAO. Since that time, our office moved into a new space in 2016, and my inquiries leave me relatively certain that the 60-some boxes are not physically in our office space now.

Typically, documents from closed cases are sent to the Federal Records Center under what we call a "USAO Number," which is an internal tracking number assigned to cases as they are filed. Our records indicate that there are no boxes at the FRC associated with the USAO number assigned to the US v. Rockwell criminal prosecution. I am in the process of reviewing boxes of documents associated with other, linked cases, such as *U.S. ex rel Stone v. Rockwell* and the *Cook* litigation, and while that review is ongoing, I have not yet located the 64 boxes at issue.

In tandem with the document/FRC search, I have been attempting to reach out to former USAO staff and attorneys who touched the Rocky Flats matter over the years to see whether they have any memory of where the boxes might have ended up. That effort is ongoing, but has not yet yielded results. Unfortunately, the passage of several decades means that there is no one still here who had first-hand knowledge of the 60-some boxes.

In addition, I know that at the status conference before Magistrate Judge Mix I indicated that I would file a motion to stay. Unfortunately, the lack of a hard deadline and the press of other matters have prevented me from finding time to prepare that motion. Given that petitioners are the ones seeking action (i.e. a hearing date), would you be amenable to filing a motion to that effect, that we would then respond to? Again, my apologies on that front.

Thanks very much,

Kyle

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