IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CITIZENS FOR RESPONSIBILITY AND ETHICS IN WASHINGTON, Plaintiff, v. U.S. DEPARTMENT OF JUSTICE, Defendant.	Case No. 1:19-cv-02267-EGS

REPLY MEMORANDUM IN SUPPORT OF PLAINTIFF'S
MOTION FOR PARTIAL SUMMARY JUDGMENT

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INTRODUCTION

In 2018, the United States Attorney for the Southern District of New York ("SDNY") opened an investigation into potential campaign finance and other crimes committed during and after President Trump's campaign for president in 2016. That investigation led to the guilty plea and conviction of Michael Cohen, President Trump's attorney and "fixer," in the summer of 2018, but did not yield charges of any other individuals or entities. Instead, the investigation was quietly closed in early 2019 after the political leadership of the Department of Justice ("DOJ") initiated and engaged in correspondence and meetings with SDNY.

In response to a Freedom of Information Act ("FOIA") request from Plaintiff Citizens for Responsibility and Ethics in Washington ("CREW") for records relating to the investigation of who besides Cohen committed campaign finance or other crimes, DOJ decided to withhold correspondence between SDNY and DOJ leadership (the "SDNY Correspondence") and interview records under Exemptions 5, 6 and 7(C), as well as search warrant records under Exemptions 6 and 7(C).

Despite supplementing the record with a new declaration, DOJ still has not met its burden of justifying the withholding of these records. With respect to FOIA Exemption 5, DOJ has not articulated how each of the records specifically related to litigation that was anticipated or to prosecutorial decisions that were impending. Instead, it continues to rely on vague, generalized statements about an investigation that implicated unnamed individuals or entities and an unspecific articulation of the harm that DOJ would suffer if those records were disclosed. The new declaration—which discloses that the declination decision or decisions included an individual or individuals besides then-President Trump—does not answer the questions CREW raised about whether prosecution and litigation was genuinely contemplated.

Nor has DOJ justified its withholdings on privacy grounds under FOIA Exemptions 6 or 7(C). The D.C. Circuit's recent decision in *Electronic Privacy Information Center v. United States Department of Justice*, No. 20-5364, 2021 WL 5571135 (D.C. Cir. Nov. 30, 2021) ("*EPIC*") bolsters CREW's argument that a public interest in understanding how DOJ conducted an investigation of tremendous importance to the American people can trump privacy interests in nondisclosure, especially when the factual components of the material withheld are already in the public record. *EPIC* also underscores the importance and propriety conducting an *in camera* review of the records being withheld to assist the court's assessment of DOJ's withholdings where the agency's declarations leave many questions unanswered.

Accordingly, CREW respectfully requests that this Court order the disclosure of the information in the SDNY Correspondence, interview records, and search warrant records that have been withheld under Exemptions 5, 6, and 7(C) or, in the alternative, that this Court conduct an *in camera* review of these withholdings to determine whether they are lawful.

ARGUMENT

I. DOJ has not met its burden of justifying its Exemption 5 withholdings because it has failed to say what litigation was anticipated or what deliberative process was ongoing.

To support its Exemption 5 withholdings, DOJ bears the burden of explaining what role withheld material played in the investigation and how the disclosure of that material would harm the interests that Exemption 5 is intended to protect. With respect to the deliberative process privilege, the "court must evaluate the documents 'in the context of the administrative process which generated them.'" *United States Fish & Wildlife Serv. v. Sierra Club, Inc.*, 141 S. Ct. 777, 786 (2021) (quoting *N. L. R. B. v. Sears, Roebuck & Co.*, 421 U.S. 132, 138 (1975)). The Court must conduct a similar inquiry into the context surrounding a record withheld pursuant to the

attorney work product privilege. The attorney work-product doctrine does not shield all documents drafted by an agency attorney; rather, it only shields materials "prepared in anticipation of litigation or for trial by or for another party or by or for that other party's representative (including the other party's attorney, consultant, surety, indemnitor, insurer, or agent)." *Jud. Watch, Inc. v. Dep't of Just.*, 432 F.3d 366, 369 (D.C. Cir. 2005) (quoting Fed. R. Civ. P. 26(b)(3)). The purpose of the attorney work product privilege "is not to protect any interest of the attorney, who is no more entitled to privacy or protection than any other person, but to protect the adversary trial process itself." *Coastal States Gas Corp. v. Dep't of Energy*, 617 F.2d 854, 864 (D.C. Cir. 1980).

In its opening brief, CREW questioned what role that the SDNY Correspondence actually played since DOJ's policies prevented then-President Trump from being prosecuted while he remained in office. In response to CREW's motion for summary judgment and accompanying filings, DOJ submitted a new and carefully worded declaration from Assistant U.S. Attorney Thomas McKay stating that several of the SDNY Correspondence records – namely the December 15, 2018 email, the February 22, 2019 memorandum, and the March 1, 2019 memorandum – concerned potential prosecutions that "included an individual or individuals other than former President Trump." Supplemental Decl. of Thomas McKay ("Second McKay Decl."), ECF No. 31-1, ¶¶ 11, 13. And with respect to the March 1, 2019 memorandum and the March 1, 2019 email, McKay states that those records concerned potential litigation "involv[ing] an individual or individuals other than former President Trump." *Id.* ¶ 12. Based on this additional information, DOJ contends that it should prevail on Exemption 5.

It should not. McKay's carefully worded second declaration does not deny that one of the persons investigated was then-President Trump. Rather, it simply states that that the potential

prosecutions involved one or more individuals besides the former president. McKay's statement therefore does not respond directly to CREW's argument that no deliberations were ongoing or litigation anticipated with respect to the then-president. *See* CREW Response Br., ECF No. 27 at 15-26. DOJ erroneously claims that because some other individual or individuals were investigated, the deliberative process and attorney work product privileges still apply.

Records relating specifically to the investigation of then-President Trump are beyond the reach of Exemption 5 and should be produced because they government has not identified a decisionmaking process to which they relate, *see Senate of the Com. of Puerto Rico on Behalf of Judiciary Comm. v. U.S. Dep't of Just.*, 823 F.2d 574, 585 (D.C. Cir. 1987), or any litigation that was in fact contemplated, *see Coastal States*, 617 F.2d at 865. The government has provided no reason to think that the portions of the SDNY Correspondence that pertain to then-President Trump are not segregable, so at a minimum, the Court should order that they be disclosed. Where they are segregable, the portions of the SDNY Correspondence that pertain to the former president should therefore be disclosed. *See* 5 U.S.C. § 552(b) (requiring disclosure of "[a]ny reasonably segregable portion of a record" that is not subject to an exemption); *Mead Data Cent., Inc. v. U.S. Dep't of Air Force*, 566 F.2d 242, 261 (D.C. Cir. 1977) (requiring agencies to meet a high standard of proof for claims that non-exempt material is not segregable from exempt information).

DOJ argues that because prosecution of then-President Trump was theoretically possible once he was no longer in office there were still decisions to be made and potential litigation to prepare for; however, DOJ has not articulated how the records in question relate to any decisions that were actually on the table in late 2018 or early 2019. Nor has DOJ asserted exemptions that would be consistent with an ongoing investigation, *see* 5 U.S.C. § 552(b)(7)(A) (permitting the

withholding of records relating to ongoing law enforcement matters), or provided reason to think that litigation was actually contemplated at that time the SDNY Correspondence occurred. Instead, the timeline established by DOJ's *Vaughn* index, *see* DOJ Ex. B-1, ECF No. 25-4, and the records that have been disclosed, CREW Ex. A-1, ECR No. 27-4, strongly suggests that whatever investigation had occurred was over and no further action was ever contemplated.

DOJ has not carried its burden of justifying the withholding of records relating to an investigation of the president under either the deliberative process privilege or the attorney work product privilege. With respect to the deliberative process privilege, the D.C. Circuit recently explained that the agency invoking the privilege must show "(1) what deliberative process is involved, and (2) the role played by the documents in issue in the course of that process," *Jud. Watch, Inc. v. Dep't of Just.*, No. 20-5304, 2021 WL 5856518, at *3 (D.C. Cir. Dec. 10, 2021) (cleaned up). DOJ continues to advance the theory that the deliberative process privilege is expansive enough to extend to any briefing material that is provided to agency leadership on the grounds that it is relevant to their decision of whether or not to exercise management or supervisory authority. *See* DOJ Response Br., ECF No. 30, at 11-12. As CREW explained in its opening brief, that expansive view of the deliberative process privilege and Exemption 5 could easily swallow most material shared with agency leadership—not to mention matters potentially implicating supervision by subordinate agency managers. This interpretation of the privilege runs counter to the FOIA's central purpose: "to ensure that the Government's activities be opened to the sharp eye of public scrutiny[.] " *U.S. Dep't of Justice v. Reporters Committee For Freedom of Press*, 489 U.S. 749, 774 (1989). Consistent with that purpose of promoting transparency, the Supreme Court has admonished that Exemption 5, like all exemptions, must be interpreted narrowly, *Milner v. U.S. Dep't of Navy*, 562 U.S. 562, 565 (2011). Endorsing a standard by

which an agency could withhold all records pertaining to the potential exercise of supervisory authority would be emphatically inconsistent with that admonition.

Courts have also been reluctant to permit agencies to claim the attorney work product privilege in circumstances where the record shows that litigation was not, in fact anticipated, even if it was theoretically possible at one time. *See Senate of the Com. of Puerto Rico*, 823 F.2d at 586 (D.C. Cir. 1987) ("[A]bsent any additional support, [the court is] reluctant to credit a claim that documents generated while there was no active investigation underway were prepared 'in anticipation of litigation.'"); *Canning v. Dep't of the Treasury*, No. 94-2704, slip op. at 12 (D.D.C. May 7, 1998) (holding prosecutor's letter setting forth reasons relied upon in declining to prosecute case and "written after the conclusion of the investigation and after the decision to forgo litigation was made" not covered by privilege). For this reason, the Court cannot sustain DOJ's attorney work product privilege claims with respect to investigation of then-President Trump without understanding what future process was actually foreseeable at the time the SDNY Correspondence was created.

The Court's analysis should not be led astray by DOJ's erroneous claim that the attorney-work product privilege does not need to be justified for every component of a record that is being withheld. *See* DOJ Response at 5 (citing *Nat'l Ass'n of Criminal Def. Lawyers v. U.S. Dep't of Justice Exec. Office for U.S. Attys.*, 844 F.3d 246, 256 (D.C. Cir. 2016)). DOJ relies on a line of cases including *Judicial Watch, Inc.*, 432 F.3d at 371 (D.C. Cir. 2005) and *Martin v. Office of Special Counsel*, 819 F.2d 1181, 1187 (D.C. Cir. 1987), that stand for the proposition that an agency does not have to segregate factual and legal material that was prepared in anticipation of litigation because Exemption 5 encompasses both. Those cases are distinguishable from circumstances where exempt material appears alongside non-exempt material in a withheld document. The authorities on which

DOJ relies do not disturb the agency's overarching obligation to disclose all reasonably segregable non-exempt information. *See Mead Data Cent.*, 566 F.2d at 261.

The Second McKay Declaration also is not fatal to CREW's argument with respect to the portions of these records that address the potential prosecution of other individuals. As CREW explained in its opening brief, it is possible that DOJ's policy of not indicting a sitting president impacted cases beyond a simple indictment of the president. *See* CREW Response Br. at 19-20 n.4. For example, DOJ may have applied that policy in a manner that precluded conspiracy charges from being pursued against the President and other individuals or precluded DOJ from pursuing charges against the President's closely held businesses or campaign.

The record is insufficient for the Court to analyze the propriety of DOJ's withholding of this additional material because it is not clear what criminal investigation beyond Cohen and the president was complicated and whether it was genuinely under deliberation and future litigation contemplated. These highly unusual circumstances and the small number of pages at issue[1] makes *in camera review* a preferred option if the Court has remaining questions on the propriety of DOJ's withholdings. *Quinon v. FBI*, 86 F.3d 1222, 1228 (D.C. Cir. 1996) (the number of withheld documents is "important[] factor" in deciding whether to conduct in camera review.). Finally, for the reasons articulated in CREW's opening brief, DOJ has not demonstrated foreseeable harm in the disclosure of the SDNY correspondence. The agency has not identified a "specific harms to the relevant protected interests that it can reasonably foresee would actually ensue from disclosure of the withheld materials and connect the harms in a meaningful way to the information withheld." *Center for Investigative Reporting v. U.S. Customs and Border Protect.*,

[1] According to the government's *Vaughn* index, the withheld portions of the SDNY Correspondence number 27 pages, some of which have already been disclosed in part. *See* DOJ Ex. B-1.

436 F. Supp. 3d. 90, 106 (D.D.C 2019) (cleaned up). In the context of the deliberative process privilege, this requirement means that "agencies must concretely explain how disclosure 'would'—not 'could'—adversely impair internal deliberations." *Reporters Comm. for Freedom of the Press v. FBI*, 3 F.4th 350, 369–70 (D.C. Cir. 2021). *See also Selgjekaj v. Exec. Off. for United States Att'ys*, No. 20-CV-2145 (CRC), 2021 WL 3472437, at *5 (D.D.C. Aug. 6, 2021) (applying the standards articulated in *Reporters Committee* to the attorney work-product privilege). It is hardly self-evident, for instance, that a subordinate official or office that has been asked to brief superiors on the status of a matter is engaging in sensitive deliberations that should be protected from future scrutiny. Status updates—especially those involving cases that are barred from or otherwise unlikely to lead to prosecution or further litigation—simply do not implicate the same potential harm as material that presents recommendations or options for future agency action. *See, e.g.*, *Jud. Watch, Inc. v. Dep't of Just.*, 800 F. Supp. 2d 202, 215 (D.D.C. 2011); *Zander v. Dep't of Just.*, 885 F. Supp. 2d 1, 11 (D.D.C. 2012), on reconsideration in part (Oct. 31, 2012) ("The Court finds that the two e-mails do not fall under the attorney work product doctrine because the e-mails are communications to and from clients regarding litigation, rather than actual preparation by attorneys for litigation (or anticipated litigation)."). Because DOJ has failed to explain how the SDNY Correspondence pertains to specific *bona-fide* decisions or anticipated litigation, it has failed to show how the interests protected by Exemption 5 would—not could—be threatened by the public disclosure of this material.

With regard to the interview records, CREW recognizes that in the normal circumstances, such records might appear to be wholly protected by the attorney work product privilege. In this case, however, it appears very likely that DOJ's assertion of that privilege depends on what specific individuals or entities were being investigated and where DOJ's investigation was heading. If, when any one of the interview records was prepared the decision to forgo litigation had already been made,

then it is not appropriately subject to the work product privilege. *See Senate of the Com. of Puerto Rico* , 823 F.2d at 586–87 ("While it may be true that the prospect of future litigation touches virtually any object of a DOJ attorney's attention, if the agency were allowed 'to withhold any document prepared by any person in the Government with a law degree simply because litigation might someday occur, the policies of the FOIA would be largely defeated.'") (quoting *Coastal States*, 617 F.2d at 865). For these reasons, CREW respectfully submits that the question of whether the interview records are privileged attorney work product hinges in part on questions that would very likely be answered by *in camera* review of the SDNY Correspondence. If review of the SDNY Correspondence shows that no litigation was reasonably foreseeable in late 2018 and early 2019, the interview records drafted during the same period were not attorney work-product. *See* Ex. B-1 at 3 (identifying 5 interview records created between January and April 2019). If review of the SDNY Correspondence confirms that litigation was never contemplated or was taken off of the table sometime in 2018, then interview records created earlier in 2018 are also not properly subject to the attorney work-product privilege and should be disclosed. *See id*. at 1-3.

II. The public interest in disclosure outweighs the privacy interests asserted by DOJ in conjunction with its Exemption 6 and 7(C) withholdings.

The public interest in how DOJ handled the politically charged investigation of Michael Cohen, then-President Trump, and other unnamed associates for campaign finance and other crimes outweighs the privacy interests of these individuals in nondisclosure. That conclusion is supported by the D.C. Circuit's recent decision in *EPIC*, which ordered the disclosure of material withheld under similar circumstances. It is also a consequence of DOJ's failure to respond to CREW's exhibits detailing the evidence of criminal misconduct that is already in the public record and that DOJ has referenced in search warrant applications and other investigation documents that are part of the public record.

A. The D.C. Circuit recently ruled in favor of disclosure in comparable circumstances

In *EPIC*, the D.C. Circuit recently ordered the disclosure of the portions of Special Counsel Robert Mueller's Report on the Investigation into Russian Interference in the 2016 Presidential Election that were withheld under Exemptions 6 and 7(C) after conducting a similar balancing test. *EPIC*, No. 20-5364, 2021 WL 5571135, at *7. The information that the court ordered be disclosed—the analysis that supported the Special Counsel's campaign finance declination decisions—bolsters CREW's argument in this case that prosecution memoranda should not be withheld under Exemptions 6 and 7(C) when the factual circumstances of the alleged misconduct are widely known and have been disclosed by the government in other settings.

In *EPIC*, the D.C. Circuit reaffirmed its prior statements that "'[m]atters of substantive law enforcement policy,' … 'are properly the subject of public concern,'" and that "the 'relevant public interest is not to find out what [the official] himself was "up to" but rather how the FBI and the DOJ carried out their respective statutory duties to investigate and prosecute criminal conduct.'" *Id.* (citing *CREW v. Dep't of Just.*, 746 F.3d 1082, 1093 (D.C. Cir. 2014)). The court also explained that there was a significant but reduced privacy interest in allegations of criminal misconduct pertaining to public officials or regarding factual allegations that were already in the public record. *Id.* at *5.

The D.C. Circuit also rejected an argument similar to one that DOJ advances here: namely, that the public interest in disclosure is reduced because some of the information withheld has already been disclosed elsewhere. *See EPIC*, 2021 WL 5571135, at *7 ("We reject DOJ's argument that the public interest is reduced because '[m]ost of the Mueller Report has already been disclosed' and the 'Congress has also released a substantial volume of information

about the events underlying the Special Counsel's investigation.'"). After conducting an *in camera* review of the records in question, the court conducted a case-by-case analysis of the withholdings. Disclosure of the campaign finance declination information, the court determined, was warranted because "releasing this information would show only government decisionmaking, not new private information." *Id*. The court reached the opposite conclusion with the withholding of information relating to a declination decision regarding a potential false statement because "this material contains additional facts about individuals that are not disclosed elsewhere and that would be highly stigmatizing." *Id.*

Although this Court must make its own case-by-case determination, the D.C. Circuit's decision in *EPIC* bolsters CREW's arguments with respect to Exemptions 6 and 7(C). First, *EPIC* demonstrates the propriety of conducting *in camera* review of records in dispute. Second, the Court must determine the nature of the public interest in disclosure and the private interest in nondisclosure. Third, when the Court balances the privacy and disclosure interests, the Court should, where appropriate, apply *EPIC*'s holding that the public interest in disclosure outweighs privacy interests where the withheld material does not contain new factual information but rather reveal DOJ's analysis of those facts.

B. Application of *EPIC* to the SDNY Correspondence

The public interest in the disclosure of the SDNY Correspondence is extraordinarily high. As CREW explained in its opening brief, the SDNY Correspondence would likely reveal whether DOJ pulled punches when it declined to charge anyone besides Michael Cohen with campaign finance and associated crimes despite the overwhelming evidence that others were culpable for that conduct and efforts to conceal it. These records are most likely to contain whatever analysis DOJ used to justify its declination decision and are also most likely to reveal

what role DOJ leadership played in those declination decisions. The records also are likely to reveal the role played by Department leadership, including Attorney General Barr, who auditioned for his job by penning a legal defense of the president from obstruction charges in the closely related Mueller investigation.

The privacy interest in the nondisclosure of these records is diminished to the extent that it reflects the interest of former President Trump and other public officials. Former President Trump has a diminished expectation of privacy with respect to this investigation because he was the most prominent public political figure in the country. *Fund for Const. Gov't v. Nat'l Archives & Recs. Serv.*, 656 F.2d 856, 864 (D.C. Cir. 1981)(rejecting the view that government officials forfeit their personal privacy but acknowledging that they, "by virtue of their positions, might be entitled to a lesser degree of protection than private citizens"). The government has not disclosed the identity of any of the individuals implicated, including whether or not they were public officials with a diminished expectation of privacy. The Court can and should order the DOJ to disclose that information *ex parte* or review these records *in camera* if the Court's ruling turns on the identity of the individuals implicated.

It is impossible for CREW to know the extent to which the factual material in the SDNY Correspondence has already been disclosed by the government—a question that is key to the *EPIC* analysis and one that will be impossible for the court to decipher without *in camera* review or more detailed filings from the government. DOJ's claim that CREW has not pointed to specific evidence in the public record that appears to duplicate what is being withheld, DOJ Response Br. at 19-20 is laughable. CREW submitted numerous exhibits that it argued were likely to contain information similar to that which DOJ withheld. *See* SOF ¶¶ 10-17, ECF No. 31-2; Decl. of Conor Shaw, Exs. A-2, A-3, A-4, A-5, A-6, A-7, A-8, A-9. CREW is obviously

not able to do a line-by-line comparison of what is in the public domain and what is in the records that DOJ has withheld; nonetheless, CREW clearly has met its burden of "pointing to specific information in the public domain that appears to duplicate that being withheld." *Public Citizen v. Dep't of State*, 276 F.3d 634, 645 (D.C. Cir. 2002).

C. Application of *EPIC* to the search warrant and interview records

The Court's analysis of the search warrant and interview records should be guided by a similar analysis. The public interest in these records is also substantial. There are multiple ways to pull punches in an investigation, including failing to conduct searches of or interview targets of the investigation. Disclosure of the interview and search records would help the public understand whether DOJ failed to use the full breadth of its powers while investigating the President's role in Cohen's offenses and the President's efforts to conceal the hush-money scheme after his election and inauguration. These records also would place the SDNY Correspondence in appropriate context and help the American people understand whether it was SDNY that pulled punches or Department leadership intervened in the winter of 2018 to 2019.

CREW acknowledges that the search warrant and interview records are more likely to contain factual information than legal analysis. Nonetheless, it is significant that DOJ has acknowledged that a substantial portion of the factual material in these records has already been disclosed. In its response brief, DOJ states that "[t]he government has already released documents containing information similar to information contained within these records" and that "[t]he withheld search warrant applications are in many respects very similar to the search warrant applications that have already been publicly filed in redacted form in Mr. Cohen's criminal case." Response Br. at 18-19. Under the *EPIC* framework, the government's admissions here tilt the balance heavily in favor of disclosure because "releasing this information would

show only government decisionmaking, not new private information." 2021 WL 5571135, at *7. In other words, DOJ's disclosures strongly suggest that large portions of these records are subject to relatively minimal privacy concerns. And—just as in *EPIC*—the fact that information DOJ seeks to withhold is already in the public record does not undermine the public interest in its disclosure. *Id.*

Diminished also are the privacy interests of the individual or individuals who DOJ has already publicly linked to the investigation and who were the subject of search warrants that DOJ has withheld. Even if there is a privacy interest in the fact that an individual is the subject of an investigation or the contents of a file explaining why that is the case, the Court must still balance those interests against the public interest in disclosure. *See Nat'l Archives & Records Admin. v. Favish*, 541 U.S. 157, 171 (2004).

At a minimum, the Court should order disclosure of the portions of the interview and search records that contain no new private information. *See* 5 U.S.C. § 552(b) ("Any reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt under this subsection."); *Mead Data Cent.*, 566 F.2d at 261. Alternatively, the Court could conduct its own *in camera* review and determine what factual information in these records is already in the public domain. *See, e.g.*, *EPIC*, 2021 WL 5571135, at *6 ("After conducting our own *in camera* review of the unredacted Mueller Report, we determined that the factual and personally identifying information alleged to be contained in the redacted passages . . . is available elsewhere in the Report.").

An admittedly closer balancing question is whether disclosure of the identities of individuals searched or interviewed is warranted. CREW acknowledges that the privacy interests in withholding that information is substantial. The question is whether that substantial interest is

outweighed by an even more substantial public interest in understanding how DOJ conducted this investigation. *See EPIC*, 2021 WL 5571135, at *7; *CREW*, 746 F.3d at 1093. While that may be a high bar, the unique circumstances of this investigation, the role played by Attorney General Barr, and large amount of evidence in the public record pointing to additional culpability are all reasons for the Court to place tremendous weight on the public interest in disclosure. If the Court is unprepared to balance the competing interests based on the parties' pleadings, CREW respectfully submits that the Court should conduct an *in camera* review of these records (in addition to any review of the SDNY Correspondence). *See EPIC*, 2021 WL 5571135, at *6; *Quinon*, 86 F.3d at 1228.

CONCLUSION

For the reasons stated above, CREW respectfully requests that the Court order the disclosure of the withheld SDNY Correspondence, interview records, and search warrant records withheld under Exemptions 5, 6, and 7(C) or, in the alternative, that the Court conduct an *in camera* review of the withheld materials to determine whether they should be disclosed.

Dated: December 17, 2021

Respectfully submitted,

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