

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

CITIZENS FOR RESPONSIBILITY AND
ETHICS IN WASHINGTON,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF
HOMELAND SECURITY,

Defendant.

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Case No. 1:19-cv-3544 (APM)

**PLAINTIFF’S MEMORANDUM OF POINTS AND AUTHORITIES IN OPPOSITION
TO DEFENDANT’S MOTION FOR SUMMARY JUDGMENT**

Factual Background

On January 8, 2016, the Department of Homeland Security announced the creation of a Countering Violent Extremism (CVE) Task Force. This interagency effort was intended to marshal the resources of the federal government to combat domestic violence extremism of all kinds. Secretary Jeh Johnson described its purpose:

Countering violent extremism has become a homeland security imperative, . . . At the Department of Homeland Security, our Office for Community Partnerships – which I established last year to take the Department’s CVE efforts to the next level – has been working to build relationships and promote trust with communities across the country, and to find innovative ways to support those who seek to discourage violent extremism and undercut terrorist narratives. The interagency CVE Task Force that we are announcing today, and which will be hosted by the Department of Homeland Security, will bring together the best resources and personnel from across the executive branch to ensure that we face the challenge of violent extremism in a unified and coordinated way.¹

¹ Dep’t of Homeland Security, *Countering Violent Extremism* (Jan. 8, 2016), <https://www.dhs.gov/news/2016/01/08/countering-violent-extremism-task-force>.

On July 6, 2016, the Department of Homeland Security announced that, pursuant to a Congressional appropriation, it would award \$10,000,000 of grants through its CVE Grant Program.² The purpose of that grant program was to:

develop and expand efforts at the community level to counter violent extremist recruitment and radicalization to violence. The Program provides funding for activities that enhance the resilience of communities being targeted by violent extremists, provide alternatives to individuals who have started down a road to violent extremism, and create or amplify alternative messages to terrorist/violent extremist recruitment and radicalization efforts. It also seeks to develop and support efforts that counter violent extremists' online recruitment efforts.³

On October 28, 2016, DHS issued a Security Strategy for Countering Violent Extremism.⁴ Providing grants was one part of that Security Strategy.⁵

On January 13, 2017, a week before the end of the Obama Administration, Secretary Johnson announced the CVE grantees.⁶ Those grantees included two organizations dedicated to combatting white nationalist extremism: Life After Hate and the University of North Carolina (UNC) at Chapel Hill.⁷ Life After Hate is an organization founded by former white supremacists

² Dep't of Homeland Security, Fact Sheet: FY 2016 Countering Violent Extremism (CVE) Grants (July 6, 2016), <https://www.dhs.gov/news/2016/07/06/fy-2016-countering-violent-extremism-cve-grants>.

³ *Id.*

⁴ Dep't of Homeland Security, *Department Of Homeland Security Strategy For Countering Violent Extremism* (Oct. 28, 2016), https://www.dhs.gov/sites/default/files/publications/16_1028_S1_CVE_strategy.pdf.

⁵ *Id.* at 1.

⁶ Dep't of Homeland Security, *Statement by Secretary Jeh Johnson Announcing First Round of DHS's Countering Violent Extremism* (Jan. 13, 2017), <https://www.dhs.gov/news/2017/01/13/statement-secretary-jeh-johnson-announcing-first-round-dhss-countering-violent>.

⁷ *Id.*

who have renounced their views and work to help others do the same.⁸ UNC was awarded a grant to counter jihadist and white supremacist recruiting.⁹

After the Trump Administration took office in January 2017, then-Secretary of Homeland Security John Kelly ordered a review of the CVE Task Force¹⁰ and froze the grant awards made by DHS for further review.¹¹ The emerging view of the Trump Administration was that the CVE efforts, including CVE grants, should focus on Islamic extremism and exclude white nationalist extremism from their scope.¹² Because they came at the very beginning of the Trump

⁸ Life After Hate, <https://www.lifeafterhate.org/team>; Zaid Jilani, *This Group Has Successfully Converted White Supremacists Using Compassion. Trump Defunded It.*, THE INTERCEPT (Aug. 17, 2017, 10:16 AM), <https://theintercept.com/2017/08/17/this-group-has-successfully-converted-white-supremacists-using-compassion-trump-defunded-it/>.

⁹ Melanie Zanona, *Trump cuts funds to fight anti-right wing violence*, THE HILL (Aug. 14, 2017, 6:35 PM), <https://thehill.com/policy/national-security/346552-trump-cut-funds-to-fight-anti-right-wing-violence>.

¹⁰ Jessica Schulberg, *Controversial Trump Aide Katharine Gorka Helped End Funding For Group That Fights White Supremacy*, HUFFINGTON POST (Aug. 15, 2017, 8:34 AM), https://www.huffpost.com/entry/katharine-gorka-life-after-hate_n_59921356e4b09096429943b6; Josh Rogin, *Trump's plan for dealing with domestic terror is missing in action*, WASHINGTON POST (Nov. 12, 2017), https://www.washingtonpost.com/opinions/global-opinions/trumps-plan-for-dealing-with-domestic-terror-is-missing-in-action/2017/11/12/d8f7eb2c-c65d-11e7-afe9-4f60b5a6c4a0_story.html. In Secretary Kelly's confirmation hearing questionnaire, he wrote, "My assessment is that we need effective programs that stop terrorists before they attack. Should I be confirmed, assessing these programs and their effectiveness will be a top counterterrorism priority. We need programs that effectively contribute to defeating the top terrorist threat of radical Islamic terrorism." Hearing on the Nomination of General John F. Kelly to be Secretary, Department of Homeland Security Before the S. Comm. on Homeland Sec. & Governmental Affairs, 115th Cong. 38-39 (2017) (pre-hearing questionnaire of Gen. John F. Kelly, Nominee, Sec'y, Dep't of Homeland Sec.), <http://www.hsgac.senate.gov/download/kelly-pre-hearing-questions>.

¹¹ See also John Hudson, *The Gorka That Matters Isn't Leaving The Trump Administration*, BUZZFEED NEWS (Aug. 29, 2017, 3:41 PM), <https://www.buzzfeednews.com/article/johnhudson/the-gorka-that-matters-isnt-leaving-the-trump-administration>; Melanie Zanona, *supra* note 9.

¹² Julia Edwards Ainsley et al., *Exclusive: Trump to focus counter-extremism program solely on Islam – sources*, REUTERS (Feb. 1, 2017, 6:17 PM), <https://www.reuters.com/article/us-usa-trump-extremists-program-exclusiv/exclusive-trump-to-focus-counter-extremism-program-solely-on-islam-sources-idUSKBN15G5VO>.

Administration, the reviews of the CVE Task Force and of the CVE grants were of obvious importance.

A key participant in those reviews, Katharine Gorka, advocated for a narrowing of the Task Force's mission.¹³ She preferred that it focus on domestic Islamic extremism and set aside its attention on violent white nationalism.¹⁴ At least as to the grants, the Gorka position prevailed and the two organizations committed to the fight against white nationalism, Life After Hate and UNC, were defunded.¹⁵ Not long afterwards, the nation witnessed the violence of domestic white extremists during the August 11-12, 2017 "Unite the Right" rally in Charlottesville, Virginia.

On August 18, 2017, Citizens for Responsibility and Ethics in Washington (CREW) filed a four-part FOIA request with the Department of Homeland Security. It requested:

- (1) Copies of all calendars and/or other records from January 20, 2017 to the present reflecting meetings Katharine Gorka had, [sic] currently Adviser to the Department of Homeland Security's Office of Policy, and formerly Adviser to the DHS Chief of Staff's Office;
- (2) Documents reflecting the responsibilities and duties of Ms. Gorka, both in her current role as Adviser to the DHS Office of Policy, and in her previous role as Adviser to the DHS Chief of Staff's Office;
- (3) All communications from January 20, 2017 to the present between Ms. Gorka and George Selim, former DHS Director of the Office for Community Partnerships, and/or his then-deputy David Gersten; and

¹³ Jessica Schulberg, *supra* note 10; Josh Rogin, *supra* note 10.

¹⁴ *Id.*; see also Peter Beinart, *Trump Shut Programs to Counter Violent Extremism*, THE ATLANTIC (Oct. 29, 2018), <https://www.theatlantic.com/ideas/archive/2018/10/trump-shut-countering-violent-extremism-program/574237/>.

¹⁵ Dep't of Homeland Security, *DHS Countering Violent Extremism Grants* (March 27, 2020), <https://www.dhs.gov/cvegrants>; Melissa Quinn, *Trump aide Katharine Gorka urged DHS to pull grant for group fighting white supremacy: Report*, WASHINGTON EXAMINER (Aug. 15, 2017, 11:55 AM), <https://www.washingtonexaminer.com/trump-aide-katharine-gorka-urged-dhs-to-pull-grant-for-group-fighting-white-supremacy-report>; Jessica Schulberg, *supra* note 10.

- (4) Documents reflecting DHS’ 2017 review of the Countering Violent Extremism (CVE) program, ordered by then-DHS Secretary John Kelly in January, as well as any other documents reflecting the decision to revoke the CVE grant funding from the nonprofit organization, Life After Hate, and from the University of North Carolina at Chapel Hill.

Declaration of James V.M.L. Holzer (hereinafter “Holzer Decl.”) ¶ 7, Exh. A. That day, DHS acknowledged receipt of the request and conditionally granted CREW’s fee waiver. Holzer Decl. ¶ 8. Then, nothing happened for nearly two years.

As later corrected, by letter dated June 23, 2019, DHS told CREW that it had located 695 pages of responsive records, of which it would release eight full pages and 687 pages with redactions. Holzer Decl. ¶ 14, Exh. B. Mr. Holzer states that this release covered Requests 2, 3, and 4. *Id.* at ¶ 17. In reality, pages 276-687 of the 2019 production included calendar entries requested in Request 1. On September 20, 2019, CREW filed an administrative appeal that was not decided prior to the filing of this lawsuit. *Id.* at ¶ 15. On April 1, 2020, DHS produced an additional 370 pages of records in response to Request 1, 99 in full and 271 in redacted form. *Id.* at ¶ 17; Exh. C. On July 17, 2020, DHS notified CREW that it had sent six pages of records to other agencies for consultation. A supplemental release, with redactions, followed. *Id.* at ¶ 18; Exh. D.

ARGUMENT

I. DHS’S REVIEW OF RESPONSIVE RECORDS WAS INADEQUATE.

A. DHS Ignored CREW’s Request for Documents Related to the Kelly Review of the CVE Program.

CREW’s Request 4 asked for two *separate* categories of records: 1) documents reflecting DHS’ 2017 review of the CVE program ordered by Secretary Kelly and 2) documents reflecting the decision to revoke CVE grant funding from Life After Hate and from UNC Chapel Hill. As DHS’s brief and supporting declaration make clear, DHS’s search simply overlooked the first

request.

DHS believes that CREW has challenged the adequacy of its search because final records “concerning a decision to not go forward with awards to two grantees who previously had been named” were not found. Def.’s Mem. Supp. Mot. Summ. J. (“Def.’s Mem.”) at 2; *see also* Def.’s Mem. at 4 (“Plaintiff has now brought this suit in part based on its dissatisfaction that DHS’ search did not uncover a formal memo memorializing reasons for not effectuating the grants.”). Not so. DHS’s adequacy of search defense and supporting declaration reimagine CREW’s request as what it wished it were, rather than what it clearly requested. *Urban Air Initiative, Inc. v. Env’tl. Prot. Agency*, 271 F. Supp. 3d 241, 255-56 (D.D.C. 2017) (*quoting Miller v. Casey*, 730 F.2d 773, 777 (D.C. Cir. 1984)).

According to Mr. Holzer, DHS tasked the Office of the Chief Information Officer (OCIO) to search for documents responsive to Request 4. Holzer Decl. ¶ 11. In order to do that search, OCIO checked the e-mail accounts of 24 employees of the offices “involved with the CVE grants.” *Id.* Those offices were the Office of Public Engagement (“OPE”) and the Office of Community Partnerships (“OCP”). *Id.* OCIO used a “date range of January 20, 2017 to August 18, 2017 and the search terms (and variations thereof) ‘Life After Hate’ and ‘Univ. North Carolina at Chapel Hill.’” *Id.* Mr. Holzer further explained why the e-mail accounts of only these 24 employees warranted review and why only e-mail accounts were searched rather than shared desktop drives. *Id.* Thus, the search for documents responsive to Request 4 was narrowed in two important respects: 1) only the e-mail accounts of the 24 employees of OPE and OCP were searched, and 2) within those e-mails, only the key words “Life After Hate” and “UNC Chapel Hill” were searched.

A careful review of Mr. Holzer’s declaration and, in particular, Paragraph 11, make it

plain why DHS did not appear to respond to the first part of CREW's Request 4 – for documents reflecting the Kelly review of the CVE program. It ignored that request altogether. Instead, it expressly focused only on the second part, relating to the grants, and narrowed it to the e-mails of staff-level employees.

DHS is quite right that it is required to look to the “reasonable description of the records sought” and to determine “precisely” what records are requested. Def's Mem. at 7. CREW's four-line Request 4, however, was extremely clear. DHS violated the FOIA by simply overlooking one of the categories of documents requested in it. *Public Emples. for Envtl. Responsibility v. United States Int'l Boundary & Water Comm'n*, 842 F. Supp. 2d 219, 225 (D.D.C. 2012) (search was inadequate when agency impermissibly interpreted request too narrowly); *Charles v. Office of the Armed Forces Med. Exam'r*, 730 F. Supp. 2d 205, 216 (D.D.C. 2010) (search was inadequate when agency imposed unilateral limitations on request in defiance of command that requests be construed liberally).

The D.C. Circuit has made it clear that for an agency to prevail on a summary judgment motion regarding the adequacy of a search, the agency must “demonstrate beyond material doubt that its search was ‘reasonably calculated to uncover all relevant documents.’” *Nation Magazine v. United States Customs Serv.*, 71 F.3d 885, 890 (D.C. Cir. 1995) (citations omitted). This Court has held on several occasions that any doubt regarding the adequacy of a search must be resolved in favor of the requestor. *Goldstein v. IRS*, 279 F. Supp. 3d 170, 188 (D.D.C. 2019) (Mehta, J.); *see also Charles*, 730 F.Supp.2d at 216-17; *Negley v. FBI*, 658 F. Supp. 2d 50, 59 (D.D.C. 2009). Here, the court does not need to parse and interpret CREW's request to assess the adequacy of the search. It is plain that it was simply not done. As the D.C. Circuit has held, “if a review of the record raises substantial doubt, particularly in view of ‘well defined requests

and positive indications of overlooked materials,’ summary judgment is inappropriate.”

Valencia-Lucena v. United States Coast Guard, FOIA/PA Records Mgmt., 180 F.3d 321, 326 (D.C. Cir. 1999) (citing *Founding Church of Scientology v. National Sec. Agency*, 610 F.2d 824, 837 (D.C. Cir. 1979)); *see also Pulliam v. United States EPA*, 235 F. Supp. 3d 179, 188 (D.D.C. 2017) (agencies may not narrow scope of a FOIA request to exclude materials reasonably within the request) (citing *LaCedra v. Exec. Office for U.S. Attorneys*, 317 F.3d 345, 348, (D.C. Cir. 2003) (concluding that the agency's interpretation of the request “reads the just-quoted phrase out of the letter” in a manner that renders the agency's interpretation “simply implausible”)). Such is the case here.

The reason for DHS’s oversight is plain. Mr. Holzer explains that DHS received several FOIA requests on the CVE program. Holzer Decl. ¶ 11. As a result, his office worked closely with relevant DHS staff and identified the 24 people “involved with the CVS *grants* process.” *Id.* (emphasis added). CREW’s request was broader, yet DHS ignored those differences. *See Brennan Ctr. for Justice at N.Y. Univ. Sch. of Law v. United States DOJ*, 2020 U.S. Dist. LEXIS 51539 at *18 (D.D.C. March 25, 2020) (“The Court finds first that DOJ's search was inadequate because it did not tailor the search terms to plaintiff's specific request but simply piggy-backed on work that was already done in a somewhat related area.”) As a result, this Court should deny DHS’s motion for summary judgment and order it to promptly perform a thorough search for records related to the Kelly review of the CVE program.

B. DHS Improperly Failed to Search for CVE Grant Records Beyond OPE and OPC.

Aside from DHS’s failure to search for records relating to the general review of the CVE Task Force, DHS’s search for records about the particular CVE grant review was also inadequate. As shown above, that search was confined only to 24 staff employees in the OPE

and OPC offices. Based on material DHS disclosed in response to CREW's FOIA request, however, it is indisputable that Secretary Kelly made the June 2017 grant funding (or defunding) decision. Naturally, when the Secretary is the decisionmaker, there is a long line of employees and officials between staff and the Secretary who usher that decision-making process forward. DHS, however, searched for no e-mails or other records associated with those beyond the staff offices. *See* Holzer Decl. ¶ 11 (describing the 24 as "agency staff members").

The press release announcing the new grantees on June 23, 2017 includes a statement from Secretary Kelly himself which states that he ordered a review of the grant making process:

"We are witnessing a global surge in terrorist activity, and in many ways our own backyard has become the battleground," said Secretary of Homeland Security John F. Kelly. "That is why DHS is focused on stepping up efforts to counter terrorist recruitment and radicalization, including through close collaboration with state and local partners. Shortly, after starting at DHS, I requested a thorough policy review of the CVE Grant Program to ensure taxpayer dollars go to programs with the highest likelihood of success, that support the men and women on the front lines of this fight, and that can be self-sustaining into the future. We will closely monitor these efforts to identify and amplify promising approaches to prevent terrorism."¹⁶

It is clear that the final grant awards were made and reviewed at the very highest levels of the Department.

Ms. Gorka's calendar entries showed a March 8, 2017 meeting entitled "CVE Grants Meeting" with a list of attendees that included the Secretary, Acting Deputy Secretary, Chief of Staff Kirstjen Nielsen, Deputy Chief of Staff Alan Meltzer, Katie Gorka, John Barsa, and others. DHS-001-3544-000019. (Numbered pages are attached as Exhibit 1 of the Declaration of Jeffrey S. Gutman). A follow-up to that meeting occurred on March 22, 2017 and also included the Secretary, Acting Deputy Secretary, Chief of Staff Nielsen, Katie Gorka, and John Barsa. DHS-

¹⁶ Dep't of Homeland Security, *DHS Awards Grants to Counter Terrorist Recruitment and Radicalization in U.S.* (June 23, 2017), <https://www.dhs.gov/news/2017/06/23/dhs-awards-grants-counter-terrorist-recruitment-and-radicalization-us>.

001-3544-000023. The next day, Ms. Nielsen invited participants for an informal meeting to further discuss the grants in light of “S1’s input.” DHS-001-3544-000024. *See also* DHS-001-3544-000025 (March 28 invitation for another meeting to present option memo to S1). S1 appears to be the Secretary. Further meetings on CVE grants with the Secretary occurred on May 19, 2020 and May 23, 2020. DHS-001-3544-000047, 48. On June 6, a Counselor to the Secretary stated that “I believe we now have S1 guidance on a decision.” DHS-001-3544-000053.

The Gorka e-mails confirm that the Secretary made the grants decision. For example, in an e-mail chain mentioning Life After Hate, Ms. Gorka says, “I think the memo should reflect that consensus, but I would like the pros and cons to be listed as well just so Sec. Kelly is clear on what may be coming down the road.” DHS Rec. 18. Earlier in that e-mail chain, John Barsa highlights the Secretary’s role as the decision-maker: “I’m not sure of the mechanics of how the Secretary chooses one option over another but that is a minor technical point.” *Id.* George Selim, the Director of Office for Community Partnerships, e-mailed Ms. Gorka and Mr. Barsa that, “I did my best to faithfully alert the Secretary to all the concerns raised . . .” DHS Rec. 71.¹⁷

If that were not enough, DHS redacted a document entitled, “Secretary’s Decision Paper Countering Violent Extremism Grant Program: Award Processing,” *Id.* at 42-49, sent by an official whose name was redacted but whose title was “Counselor, Office of the Secretary,

¹⁷ *See* DHS Rec. 78 (redacted employee outlining “views for the leadership and move the issues forward to COS and DCOS.” This is presumably the Chief of Staff and Deputy Chief of Staff; *id.* 110 (David Gersten telling Mr. Barsa and Ms. Gorka, “We understood that this memo would be shared with you as it was sent to the Front Office. Sorry to hear that didn’t happen.”); *id.* 192 (Front Office has questions on briefing memo on grant metrics); *id.* 193 (materials on grant metrics must be submitted 48 hours in advance to allow for front office counsel review and delivery to the Chief of Staff’s office); *id.* 216-17 (unnamed Counselor in the Office of the Secretary asks for version of document in an email called “CVE outline for S1); *id.* 226-27 (Counselor asks for grant memo).

Department of Homeland Security.”¹⁸ A deliverable requested on February 12, 2017 was a public statement by the Secretary on CVE. *Id.* at 80.¹⁹ On February 7, 2017, Mr. Selim sent to Deputy Chief of Staff Metzler a “decision memo attached for Secretary Kelly on the CVE grant program.” *Id.* at 233.²⁰ On March 29, 2017, Miles Taylor, of the Office of the Secretary, circulated a “draft memo for S1 regarding the consensus recommendation that we discussed at yesterday’s CVEGP follow-on meeting.” *Id.* at 265-67.²¹

Indeed, high-ranking DHS employees were referred to in e-mails in which Ms. Gorka was included and appear to relate to the CVE program or grant review. *See id.* at 53 (DCOS Metzler wants a meeting to discuss the CVE memo); *id.* at 56 (Principal Deputy Undersecretary David Grannis); *id.* at 245 (Metzler). According to Ms. Gorka’s e-mail and calendar records, she (often with John Barsa) attended meetings with high-level DHS officials, including the Secretary, about CVE matters, and possibly the CVE grants, on several occasions. DHS Rec. 5, 13, 50, 53, 90, 123, 188, 193, 195, 265-66; DHS Rec. 268 (meeting with Secretary to discuss CVE on March 28, 2017); DHS Rec. 648 (discussing meeting with Secretary).

If, as here, “positive indications of overlooked materials” exist in the record, then a court may conclude that the search conducted by the agency was inadequate. *See Valencia-Lucena*, 180 F.3d at 327 (*quoting Founding Church of Scientology, Inc. v. Nat’l Sec. Agency*, 610 F.2d

¹⁸ The Vaughn Index at 4 describes this record as including “withheld paragraphs [of] internal DHS deliberations between senior leaders regarding the content of a working draft memo regarding CVE grant funding.”

¹⁹ The Vaughn Index at 5 describes this email chain as “regarding the draft position of the secretary as to CVE grants to be circulated for review and comment.”

²⁰ As discussed below, the attached memo apparently was not reviewed. *See also* DHS Rec. 251-52 (redacted memo in email from unnamed Counselor to the Office of the Secretary for flash clearance of memo to be sent to S1). The Vaughn Index referred to this as an email chain between “DHS senior leaders”). Vaughn Index at 12.

²¹ The Vaughn Index also referred to this as an e-mail chain between “DHS senior leaders.” Vaughn Index at 12.

824, 837 (D.C. Cir. 1979)). In *Valencia-Lucena*, the Coast Guard did not search other offices within its divisions that it knew contained responsive records. *Id.* The court held that the Coast Guard's failure to search those offices called into question the adequacy of its search since "[i]t is well-settled that if an agency has reason to know that certain places may contain responsive documents, it is obligated under FOIA to search barring an undue burden." *Id.*

That same conclusion applies here. Despite knowing that individuals beyond the 24 staff office employees, up to and including the Secretary, may have records responsive to Request 4, DHS inexplicably did not review their e-mail accounts or other records, instead narrowing the scope to the 24 staff employees of the OPE and the OCP. Thus, DHS's motion for summary judgment should be denied. DHS should be required to search for documents related to the CVE grants in offices beyond the OCP and OPE.

C. DHS Failed to Review or Disclose E-Mail Attachments.

Mr. Holzer explained that, in searching for responsive records related to Requests 3 and 4, DHS "OCIO KMD is able to conduct back-end searches of all DHS Headquarters email accounts using a journaling server or similar email storage system that captures and stores every email sent or received by any DHS Headquarters email account." Holzer Decl. ¶ 10. With respect to Request 3, DHS searched the email accounts for Gorka, Selim, and Gersten. *Id.* ¶ 11. With respect to Request 4, it searched the email accounts for 24 unnamed DHS employees in the staff offices involved with CVE grants. *Id.* And, it searched only e-mail accounts. *Id.*

The reason DHS searched only email accounts is because "at DHS documents are sent electronically via email, and thus documents and communications about them are captured by the central email system." *Id.* It stands to reason that, when teams of DHS employees are tasked with reviewing an important DHS program like the CVE Task Force, or with considering

millions of dollars of grant funding, they will share their documents through e-mail attachments.

Mr. Holzer asserts that “DHS considers each email and each attachment to be separate records.”

Id. ¶ 13. Responsive attachments “deemed to be responsive after the initial review will be transferred to the processing side of the application along with the parent email, and the parent/child relationship will still be maintained.” *Id.*

DHS, however, did not maintain that parent/child relationship. Table 1 of the Declaration of Jeffrey S. Gutman is a listing, by page number, of the DHS production in which there is an explicit reference to an attached document. There are 81 such references. In 68 of them, no attached document is released in whole, in part, or entirely redacted. Gutman Decl. ¶ 6. It is not clear whether DHS simply did not process the attached document, or that it did and withheld it in its entirety without paginating it, disclosing a fully redacted document, and adding it to the *Vaughn* index.

In either event, e-mail attachments cannot simply be ignored. As this court has held, “attachments should reasonably be considered part and parcel of the email by which they were sent [if the emails] . . . make explicit reference to, or include discussion of, the [] attachments.” *Coffey v. Bureau of Land Mgmt.*, 277 F. Supp. 3d 1, 8 (D.D.C. 2017). Here, it is clear that a fair reading of the CREW request encompassed e-mail attachments. *See PETA v. Nat’l Institutes of Health, Dep’t of Health & Human Servs.*, 745 F.3d 535, 540 (D.C. Cir. 2014) (citing *Nation Magazine v. U.S. Customs Serv.*, 71 F.3d 885, 890 (D.C. Cir. 1995)) (the agency has a “duty to construe a FOIA request liberally.”). Request 3 sought all “communications” and Request 4 sought all “documents.” Indeed, DHS understood that e-mail attachments were incorporated in CREW’s request because on some occasions, such attachments were processed. Gutman Decl. Table 1. DHS simply failed to process the remainder and that failure violated its obligations

under the FOIA. *Judge Rotenberg Educ. Ctr., Inc. v. U.S. Food & Drug Admin.*, 376 F. Supp. 3d 47, 61-62 (D.D.C. 2019) (describing that agency’s search for “any and all [responsive] records” as naturally encompassing both “emails (and attachments)”); *Am. Oversight v. GSA*, 311 F. Supp. 3d 327, 340-41 (D.D.C. 2018) (same); *Parker v. U.S. Dep’t of Justice, Office of Prof’l Responsibility*, 278 F. Supp. 3d 446, 452 (D.D.C. 2017) (same); *Bagwell v. U.S. Dep’t of Justice*, No. 15-CV-0531, 311 F. Supp. 3d 223, 2018 U.S. Dist. LEXIS 46812, 2018 WL 1440177, at *1-2 (D.D.C. Mar. 22, 2018) (same).

D. DHS Failed to Disclose Final Press Responses.

On June 23, 2017, DHS awarded the CVE grants. In August of 2017, it appears that DHS received inquiries about the grants made and, in particular, why Life After Hate was defunded. Vaughn Index at 6 (pages 120-24). DHS appears to have redacted draft answers to those questions. CREW does not quarrel with that redaction. But it does strongly suggest that DHS made final statements in response to the press inquiries. Such responses would squarely be covered by CREW’s Request 4. Here again, DHS’s single-minded focus on the group of 24 employees led it to fail to make an adequate search; in this case, a search of records in the DHS press office related to the CVE grants would have been warranted.

II. DHS’S ASSERTION OF THE DELIBERATIVE PROCESS PRIVILEGE WAS ERRONEOUS.

a. The Deliberative Process Privilege Does Not Protect Documents Reviewed by John Barsa Prior to His Becoming a Federal Employee.

FOIA Exemption 5 permits agencies to withhold “inter-agency or intra-agency memorandums or letters that would not be available by law to a party other than an agency in litigation with the agency.” 5 U.S.C. § 552(b)(5). The Supreme Court has stated that, “FOIA’s central purpose is 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). As a result, exemptions to disclosure are interpreted narrowly. *Milner v. U.S. Dep't of Navy*, 562 U.S. 562, 565 (2011) (internal quotation marks and citations omitted); *see also Murphy v. Exec. Office for U.S. Attys.*, 789 F.3d 204, 206 (D.C. Cir. 2015); *Citizens for Responsibility & Ethics in Wash. (“CREW”) v. U.S. Dep't of Justice*, 746 F.3d 1082, 1088 (D.C. Cir. 2014); *Pub. Citizen, Inc. v. Office of Mgmt. & Budget*, 598 F.3d 865, 869 (D.C. Cir. 2010); *Animal Welfare Inst. v. Nat'l Oceanic & Atmospheric Admin.*, 370 F. Supp. 3d 116, 131-132 (D.D.C. 2019). Despite that, DHS has asserted that records and e-mail chains received, reviewed, or responded to by John Barsa, a non-governmental employee, are nevertheless subject to the deliberative process exemption.

Exemption 5 covers, as a threshold matter, intra- or inter-agency communications. That is language of limitation. To interpret it to cover all communications with the government and outside third parties would drain it of “independent vitality.” *Dep't of Interior v. Klamath Water Users Protective Ass'n*, 532 U.S. 1, 12 (2001). For that reason, the government previously conceded that Presidential Transition Teams are not agencies. *Am. Oversight v. GSA*, 311 F. Supp. 3d 327, 342 (D.D.C. 2018). Therefore, this court has held that Exemption 5 does not cover communications between the GSA and the Trump Transition Team. *Id.* The question here is whether agency records shared with a particular non-governmental member of the DHS Transition Team must similarly be disclosed.

The D.C. Circuit has developed a concept called the “consultant corollary,” described by this Court as “limited.” *Climate Investigations Ctr. v. United States DOE*, 331 F. Supp. 3d 1, 25 (D.D.C. 2018) (Mehta, J.). Under this corollary, records exchanged between an agency and outside consultants may qualify as “intra-agency” for purposes of Exemption 5 if (1) the agency

solicited the records from the non-agency party or there exists “some indicia of a consultant relationship between the outsider and the agency,” and (2) the records were “created for the purpose of aiding the agency's deliberative process.” *Judicial Watch, Inc. v. U. S. Dep't of State*, 306 F. Supp. 3d 97, 106-07 (D.D.C. 2018) (citations omitted). The rationale is that “federal agencies occasionally will encounter problems outside their ken, and it clearly is preferable that they enlist the help of outside experts skilled at unravelling their knotty complexities.” *Formaldehyde Inst. v. Dep't of Health & Human Servs.*, 889 F.2d 1118, 1122, (D.C. Cir. 1989) (quoting *CNA Fin. Corp. v. Donovan*, 830 F.2d 1132, 1162 (D.C. Cir. 1987)).

This gloss on Exemption 5 makes some policy sense. When internal government resources or expertise are insufficient to tackle important problems or issues, we want the government to tap the wisdom and judgment of outsiders on a temporary basis without worry that documents they may prepare as part of the government's deliberations on the issues would have to be publicly disclosed. At the same time, this gloss cannot swallow the FOIA. It cannot be the case that the corollary must always shield records shared with or by outside experts. Thus, there are necessary limits to the doctrine to avoid draining Exemption 5 of its independent vitality.

When defining the “consultant corollary,” the courts have used the term “outside consultant” to mark the type of person or entity to which it applies. *Pub. Citizen v. U.S. Dep't of Justice*, 111 F.3d 168, 170 (D.C. Cir. 1997); *100Reporters LLC v. U.S. Dep't of Justice*, 248 F. Supp. 3d 115, 146 (D.D.C. 2017); *Competitive Enter. Inst. v. Office of Sci. & Tech. Policy*, 161 F. Supp. 3d 120, 132 (D.D.C. 2016) (Mehta, J.). The Supreme Court in *Klamath* used the term “independent contractor” as a similar term of limitation. *Klamath*, 532 U.S. at 10.

Both words have independent meaning. “Outside” denotes a person or entity separate

and apart from the government to whom the government agency reaches for advice and assistance as part of a deliberative process. The “consultant” consults, providing advice and expertise as part of the agency’s deliberative process. The consultant is not one of the deliberators or one with the power or authority to clear or approve aspects of that process. Those functions are reserved to federal officers or employees.

So understood, it becomes clear why members of a transition team do not fit comfortably in the “outside consultant” framework. There typically are many hundreds of members of presidential transition teams who are not federal employees and who assist incoming administrations. Their role is temporary, typically from the election to the inauguration. Members of transition teams often have divided interests. Some may aspire for permanent government positions and see their service as an audition. Others may wish to return to the private sector, leaving it uncertain whether their service could redound to their benefit or those of private clients or colleagues. Yet others may be unsure what the future holds for them.

Given the number, importance, and wide variety of roles played by transition team members and the courts’ duty to interpret exemptions to the FOIA narrowly, to blanketly regard all of them as satisfying the consultant corollary is simply wrong. Rather, context is key and that is precisely what Mr. Holzer’s Declaration fails to provide. What we do clearly know is that Mr. Barsa, a private citizen, was effectively embedded with DHS for months after the transition, had the sort of review and clearance functions entirely unlike that of an outside consultant and, indeed, participated in meetings with the Secretary of Homeland Security on CVE issues. Until he became a federal employee, Mr. Barsa was neither fish nor fowl: he was neither a federal employee whose records could be encompassed by the deliberative process exemption, nor an outside consultant possibly covered by the “consultant corollary.” He instead lies in a third

category unshielded by any D.C. Circuit precedent.

The answer to this problem of the government's own making is not that Mr. Barsa was an "insider" or tantamount to a government employee and thus is covered by the exemption. If that is the government's argument, then he cannot fall within the "consultant corollary" by definition. If he was not an employee, then adding him to the document flow fell outside the scope of the term "intra-agency." DHS had a choice: it could have hired Mr. Barsa when the Administration began, or it could have tapped his expertise as an outside arm-length independent consultant. But because it chose neither, and it cannot then assert that the documents he created or reviewed should be treated as though it had.

Central to the application of the "consultant corollary," which the government apparently urges, Def's Mem. at 13-14 n.1, is that the government, needing advice, solicited that guidance from a private outside group or individual. A foundational case in this area, *Ryan v. U.S. Dep't of Justice*, 617 F.2d 781 (D.C. 1980), involved questionnaires sent by the Justice Department to Senators regarding judicial nominations. Finding the documents covered by the deliberative process exemption, the D.C. Circuit emphasized that it "cannot overlook the fact that the documents here were generated by an initiative from the Department of Justice." *Ryan*, 617 F.2d at 790; *see also Nat'l Inst. of Military Justice v. U.S. Dep't of Defense*, 512 F.3d 677, 680-81 (D.C. Cir. 2008) (holding "records containing the opinions and recommendations of non-governmental lawyers" who were advising the Department of Defense were covered by Exemption 5 because the documents were "submitted by non-agency parties in response to an agency's request for advice").

The notion that the government initiated or solicited the documents from outsiders follows logically from the requirement that the record be created as part of the agency's

deliberative process. *See Public Emples. for Env'tl. Responsibility*, 740 F.3d at 201 (“[T]his Court has also interpreted the phrase ‘intra-agency’ in Exemption 5 to go beyond the text and include U.S. agency records authored by *non*-agency entities if those records were solicited by a U.S. agency in the course of its deliberative process.”). Under the consultant corollary, documents shared with outside parties can remain inter-agency or intra-agency records as long as they were shared with an outsider for the purpose of receiving neutral advice. *Ctr. for Int’l Env’tl. Law v. Office of the U.S. Trade Representatives*, 237 F. Supp. 2d 17, 27 (D.D.C. 2002).

To apply the consultant corollary here, the Court must first determine whether John Barsa is a non-agency party. Mr. Barsa was not employed by DHS until May 8, 2017, according to his New Entrant Report Financial Disclosure. *See* Executive Branch Personnel, Public Financial Disclosure Report, Barsa, John (2017), <https://www.documentcloud.org/documents/4387638-John-Barsa-Financial-Disclosure.html>. Before that date, Mr. Barsa’s e-mail footer identifies him merely as a member of the DHS Transition Team. Holzer Decl. ¶ 26. Indeed, prior to May 8, each of the 29 e-mails he sent included a footer stating he was a member of the DHS transition team. Gutman Decl. ¶ 8 and Table 3. *See, e.g.* DHS Rec. 56, 201, 226, 245. None said otherwise.

Even Mr. Holzer distinguishes between Mr. Barsa’s service as a federal employee and his prior non-employee status:

. . . John Barsa, was at all relevant times either a Department of Homeland Security employee or a member of the DHS Transition Team for the Trump Administration. . .

. . . although at some times at issue in the records in question he may not yet have been a salaried employee of the Department, he was at all relevant times either a Department employee or a member of the Trump Administration’s Transition Team for the Department.

Holzer Decl. ¶ 26. Thus, DHS effectively abandons the notion that he was an outside consultant

before he became an employee. Instead of casting him in the role of an outsider, DHS views him as an insider. DHS argues that he “plainly was within the agency” because his emails were sent by a dhs.gov account, he was a member of the transition team, and there were no indicia that he was self-interested. Def’s Mem. at 13 n.1. None of these are dispositive of Mr. Barsa being an “intra-agency” party.

Whether a person was, properly or improperly, provided a government e-mail address does not make one an agency employee. Nor does or can the government offer support for the notion that members of the transition team are employees. That Mr. Barsa was not self-interested, an issue discussed below, does not make him an agency party either.

To the extent that DHS seeks to blur his non-employee and employee roles by viewing him generally as an “insider,” there is a clear and easily administrable response. An individual is a non-agency party when that individual is not formally employed by the agency as reflected in official government documentation. Without employment by the government, the person is a “non-agency party.” Such was Mr. Barsa’s status prior to May 8, 2017.

The second question is whether DHS solicited records from Mr. Barsa with respect to the CVE Task Force and CVE Grant Program. Mr. Holzer does not tell us whether DHS solicited documents from Mr. Barsa. In fact, Mr. Holzer says nothing about the origins of the Barsa/DHS relationship, what Mr. Barsa was tasked with doing as a member of the Transition Team, and whose interests he was serving. In the absence of such information, the Court cannot determine whether the deliberative process privilege can be extended to documents reviewed by Barsa. *Bloche v. Dep’t of Def.*, No. CV 07-2050 (RC), 2020 WL 2496897, at *5; U.S. Dist. LEXIS 85014, at *2 (D.D.C. May 14, 2020) (agency fails to demonstrate deliberative process exemption applies without providing information about the context in which outside entity was

asked for information and the relationship between the entity and the agency).

A review of the documents DHS disclosed, however, suggests that DHS did not in fact solicit documents from Mr. Barsa and that he did not view himself as an arms-length outside consultant either. CREW's Request 3 asked for all communications between Ms. Gorka, Mr. Selim, and Mr. Gersten regarding CVE, not Mr. Barsa. Yet, CREW learned of Mr. Barsa's existence because DHS did not redact his name from their email chains. Prior to May 8, 2017, Barsa was an active participant in nearly all of the e-mail chains among them. He is listed in 70 of the 275 pages of e-mails. Gutman Decl. ¶ 7, Table 2. There is no indication in those e-mails that he was asked to supply records memorializing his advice and recommendations to DHS.

To the contrary, there is no indicia of a consultant relationship between DHS and Mr. Barsa. He appeared to be working hand in hand with Ms. Gorka rather than an outside consultant. For example, in a February 1, 2017 e-mail, Mr. Barsa asks, "Would it be possible for Katie and I to see any background checks or reports that were done on the NGOs that were among the intended CVE grant recipients?" DHS Rec. 56; *see also* DHS Rec. 248 (email from George Selim to John Barsa asking for memo to Secretary to be from John and Katie); DHS Rec. 217 (noting places where "Katie and John" are asked to lay out review process under current administration). Further, the Counselor to the Secretary of Homeland Security said, "Please note there are two places in the document where Katie and John are asked to lay out the current review process undertaken under the new administration – the Background section and the grant program section." *Id.* at 217.

As the grant review process continued, Mr. Barsa assumed a role in which he cleared draft documents written by government employees. On February 22, 2017, Mr. Selim wrote, "I circulated a base memo for you to start from yesterday to the team. John Barsa cleared but I

don't think we have heard from Katie.” *Id.* at 180. In response to an e-mail from Mr. Selim in which he asks Mr. Barsa and Ms. Gorka to review a document to be sent to Senate Appropriations Committee staff, in an e-mail dated February 15, 2017, titled “Hill Response,” Mr. Barsa states that “Katie is out of pocket for the rest of the day. I reviewed the responses. They seem fine to me. Feel free to fire . . .” *Id.* at 201. On February 22, 2017, an employee whose name is redacted refers to a memo that will need “John and Katie to affirm clearance tonight.” *Id.* at 28; *see also id.* at 29 (unknown employee stating, “This is my counter and John was on the phone and John approved.”).

His role as a gatekeeper included objecting to documents in addition to clearing them. Mr. Barsa wrote in a February 7 e-mail to Mr. Selim: “If the memo is confined to security screening, the ‘Houston’ issue is the only one Katie and I have concerns over. If this memo is to cover efficiencies, our concerns are plethora and this memo gets very complicated.” DHS Rec. 227. Mr. Barsa writes in a March 3 e-mail entitled “updated CVE memo,” “I am fine with George’s edits as they do not seem to conflict with mine. Generally speaking, I am not averse to George making a point to S1 that he was not comfortable giving S1 options while Katie and I were. That being said, if we are adding any new language regarding his point, I want to see it before I sign off on this as ‘final.’” *Id.* at 229-230. *See* Gutman Decl. ¶ 9, Table 4 (listing pages reflecting Mr. Barsa’s active involvement in CVE matters).

The e-mail communications make it quite clear that Mr. Barsa, a non-governmental employee, was not serving as a consultant. His role was, at least in the CVE context, parallel to that of Ms. Gorka. Both had apparent authority to direct staff, participate in document review, and to clear documents prior to being sent to front office officials. And, as noted above, they participated in the discussions with front office officials, including the Secretary, about the CVE

program and grants. *See* Gutman Decl. ¶ 10, Table 5.

It is not necessary to determine the propriety of embedding non-governmental transition team members with government agencies and delegating to them powers and authorities customarily reserved for government employees. That is, however, what DHS has done here, and there is a necessary consequence for that decision. Mr. Barsa was neither an agency employee nor an outside consultant embraced by the “intra-agency” language of the deliberative process exemption. He falls within an entirely different category altogether and one that falls outside the narrowly interpreted language of the exemption.

In *Klamath*, the Supreme Court assumed, but did not decide, that non-governmental actors can create “intra-agency” records subject to Exemption 5 “if those records were solicited by a U.S. agency in the course of its deliberative process.” *Public Employees for Envtl. Responsibility*, 740 F.3d at 201-202. This “consultant corollary” to Exemption 5 may apply “when the consultant did not have its own interests in mind.” *See McKinley v. Bd. of Governors of the Fed. Reserve System*, 647 F.3d 331, 336-37 (D.C. Cir. 2011).

Third, the court must ask whether the non-agency employees acted to advance their own interests or those of clients. That is a real question in this context. Members of a transition team are particularly vulnerable to conflict. They are often neither here nor there – at least partially disengaged from their private sector work, and uncertain whether their service will yield a government job and whether they will return to private sector pursuits. Thus, they have an incentive to play on both sides – to advance positions they think could be endearing to their potential future employer while being mindful of their own interests and those of their clients should they not get a government job.

On this point, Mr. Holzer merely says that he examined the communications involving

Mr. Barsa and he concludes that “he was not representing either his individual, non-governmental self-interest or the views or interests of others outside the agency, to include his former clients.” Holzer ¶ 26. This is precisely the “bald” sort of assertion rejected in *Competitive Enter. Inst. v. Office of Sci. & Tech. Policy*, 161 F. Supp. 3d 120 (D.D.C. 2016) (Mehta, J).

In that case, a White House official linked the Polar Vortex to global warming. The plaintiff contended that doing so was wrong and asked that the statement be corrected. In a letter, the agency refused. The plaintiff then filed a FOIA request that surfaced comments and edits made on a draft version of the refusal letter by a professor. The government invoked the consultant corollary rule to withhold that letter and stated that the professor was not advancing her self-interests or seeking a government benefit. *Id.* at 132. The basis for that conclusion was, according to this court, thin:

Leonard [the declarant] offers no other details about the “consultancy” that Dr. Francis provided to Holdren. She does not explain why Holdren needed to confer with Dr. Francis about the OSTP Letter; to what portions of the letter Dr. Francis contributed her “technical science” expertise about the Polar Vortex; or to what extent Dr. Francis has conferred with Holdren and OSTP in the past about scientific or other issues.

Id. at 133.

The record here is equally thin. It is not enough that the declarant simply concluded from a reading of the consultant’s e-mails that he or she was not representing their own interests or those of their clients. Without talking with Mr. Barsa and understanding his prior work and the work to which he might return were he not to be hired by the government, there is no way of drawing such a conclusion and there is no evidence in the record that this analysis was undertaken. In *Competitive Enter. Inst.*, the Court, in fact, rejected the government’s assertion of the professor’s lack of self-interest given that she was a chief proponent of the position the White

House official had taken. *Id.* at 135. The Holzer declaration similarly offers no information on how he reached the conclusion that did.

Moreover, in *Competitive Enter. Inst.*, this Court examined the content and context of the consultant's work with the government. The Court was left uncertain why her expertise was actually needed. In the absence of record evidence of her role and the government's need that she serves as a reviewer of the letter, it found that the corollary did not apply and ordered the release of the letter. We have the same void in the factual record here. In the absence of a factual basis on which to assert the consultant corollary, the Court should deny DHS' motion for summary judgment and order DHS to disclose all records created by or shared with John Barsa.

B. DHS Improperly Asserted the Deliberative Process Privilege.

The 2015 FOIA Improvement Act codified the “foreseeable harm” standard established administratively in 2009 by then Attorney General Holder. *Rosenberg v. U.S. Dep't of Defense*, 342 F. Supp. 3d 62, 72 (D.D.C. 2018). The FOIA now provides that “[a]n agency shall . . . withhold information under this section only if . . . (I) the agency reasonably foresees that disclosure would harm an interest protected by an exemption described in subsection (b); or (II) disclosure is prohibited by law.” 5 U.S.C. § 552(a)(8)(A)(i).

This court has held that the “foreseeable harm” requirement imposes a tougher standard on agencies to meet. *Judicial Watch I*, 375 F. Supp. 3d at 100 (the new foreseeable-harm requirement as a “heightened standard”); *see also Center for Investigative Reporting* at 106. To meet “this independent and meaningful burden,” *id.*, an agency must “identify 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.” *Judicial Watch II*, 2019 U.S. Dist. LEXIS 163473. Further, agencies

“may take a categorical approach” and “group together like records,” *Rosenberg*, 342 F. Supp. 3d at 78, but when doing so, the agency cannot rest on “nearly identical boilerplate statements” and “generic and nebulous articulations of harm.” *Judicial Watch II*, 2019 U.S. Dist. LEXIS 163473, at *4-5.

A close look at the Holzer Declaration shows that DHS has failed to satisfy each standard. Most of paragraph 25, which deals with the foreseeable harm issue, merely summarizes the traditional rationale for the deliberative process exemption, such as diminished candor, reduced exchange of ideas, need for effective policymaking, and the like. That does not satisfy the *heightened* showing required. *Reporters Comm. for Freedom of the Press v. FBI*, 2020 U.S. Dist. LEXIS 48925, at *25 (D.D.C. March 20, 2020) (“general assertions of harm to the deliberative process are sufficient to satisfy the ‘heightened standard’ of the FOIA Improvement Act’s ‘foreseeable harm’ requirement”).

Mr. Holzer does say that “to the extent that” the documents presented differing perspectives, the release could cause confusion about DHS’s actual position on these issues. Holzer Decl. ¶ 25. “To the extent that” is not a statement of fact; he does not say that the records actually did reflect differences from the final outcome. But even if they did, no conceivable confusion could trouble the public’s mind. The list of grantees is clear, objective, and public. There can be no confusion about who won the grants and who did not.

Mr. Holzer argues that because the issue here is “violent extremism,” disclosure of the records could lead “to harassment or even physical harm against those who took part in the deliberations by individuals who disagree with the Department’s mission or activities.” Holzer Decl. ¶ 25. DHS’s two-year delay in responding to CREW’s request gives us a historical perspective with which to evaluate that assertion. In the three years since the grants were either

made or withdrawn, Mr. Holzer points to no hint of such a threat of harm.

The statutory standard is “reasonably foreseeable” not remotely fanciful. After all, the CVE program and CVE grants are public knowledge, dating back to the Obama Administration. The names of officials involved in CVE, like Ms. Gorka, Mr. Selim, Mr. Gersten and others, are public (and DHS has, without objection from CREW, redacted the names of lower level employees), but without even a threat of incident. As Secretaries Johnson and Kelly have made plain, successive administrations and known officials within them oppose violent extremism and take steps to counter it. Mr. Holzer does not explain how these documents, over three years old, are so explosive as to spark reasonable fear of harm.

As this court has explained, “[t]o satisfy the ‘foreseeable harm’ standard, [the agency] must explain how a particular Exemption 5 withholding would harm the agency’s deliberative process.” *Rosenberg v. U.S. Dep’t of Defense*, 342 F. Supp. 3d 62, 78 (D.D.C. 2018). The agency need not do this category by category, but if it does, “it must explain the foreseeable harm of disclosure for each category.” *Id.* Here, Mr. Holzer lists several categories of records withheld on deliberative process grounds: draft statements about the CVE grant program, a draft public affairs statement, proposals on how to respond to an attack, proposals for agendas, proposed issues for future discussion, and non-final proposals for other policy positions. Holzer Decl. ¶ 23. He notes that sometimes the agency reached a final decision and sometimes it did not.

As this long list proceeds, it becomes less and less specific until it becomes impossible to figure out what the issue is upon which DHS was deliberating. In any event, it is not enough to generally say that all of these records, involving this broad range of issues, would cause foreseeable harm if released. DHS must explain the harm of disclosure of each category. *Rosenberg*, 342 F. Supp. at 78; *see also Judicial Watch III*, 2019 U.S. Dist. LEXIS 163473, 2019

WL 4644029, at *4-5 (agency cannot offer “generic and nebulous articulations of harm”).

For that to be reviewable by the court, the category needs to be specifically described. “Proposals for agendas” and “proposals for other agency policy positions” will not do. Nor will boilerplate assertions of harm. That harm must be linked to “specific information in the withheld materials.” *Danik v. United States DOJ*, 2020 U.S. Dist. LEXIS 94788, at *13-14 (D.D.C. May 31, 2020). DHS’s explanation fails to establish foreseeable harm from disclosing the documents. Summary judgment must be denied.

III. DHS Improperly Withheld Portions of Responsive Records as “Non-Responsive”.

DHS improperly redacted material it deemed as non-responsive from responsive records. “FOIA calls for disclosure of . . . responsive record[s], not disclosure of responsive information within . . . record[s].” *Am. Immigration Lawyers Ass’n (AILA) v. Exec. Office for Immigration Review*, 830 F.3d 667, 677 (D.C. Cir. 2016); *see e.g.*, DHS Rec. 266-268 (redacting a portion of a responsive email from Georgia Selim, which is a singular record, as a “non-responsive record”); DHS Rec. 95 (redacting a portion of a responsive email entitled “GCTF: Silence Procedure - Zurich-London Recommendations on Preventing and Countering Violent Extremism and Terrorism Online” as a “non-responsive record”). Thus, *AILA* requires agencies to disclose non-responsive material within responsive records. 830 F.3d at 677.

Similarly, in *Institute for Policy Studies v. CIA*, the Court rejected the practice of dividing single documents (intelligence briefings) and redacting portions of the documents as non-responsive. 2019 WL 3459073, at *1-2 (D.D.C. July 31, 2019). In the view of the Court, dividing the “briefing summaries into discrete paragraphs and sentences . . .disregard[ed] their original form and function.” *Id.* at *2. DHS’s improper redactions of material as non-responsive from responsive records defies the holding in *AILA* and *Institute for Policy Studies* requiring agencies

to disclose responsive records. Based on the purposes and language of FOIA and the interpretation of the court, dividing individual emails and email chains as separate records and redacting portions as “non-responsive” is incorrect and has resulted in portions of records being improperly withheld.

IV. DHS Improperly Redacted the Names of High-Level Government Employees.

DHS argues that it invoked Exemption 6 to withhold the names and contact information of low-level employees and contact information for public figures, senior leaders or political appointees. Def.’s Mem. at 16 (citing Holzer Decl. ¶¶ 30, 33). For purposes here, CREW does not quarrel with that general proposition. The problem is that DHS did not adhere to it. There are a number of occasions in which DHS appears to have redacted the names of higher-level government employees. Gutman Decl. ¶ 11, Table 6.

These include:

Unknown title, Office of the Secretary, DHS Rec. 193, 561, 634, 648

Counselor, Office of the Secretary, DHS Rec. 49, 171, 218, 227, 259

Press Secretary (Acting), DHS Rec. 185

Office of the Executive Secretary, DHS Rec. 193.

The Court should order these names to be released.

CONCLUSION

For the foregoing reasons, DHS’ motion for summary judgment should be denied.

Dated: August 28, 2020

Respectfully submitted,

/s/ Jeffrey S. Gutman

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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

CITIZENS FOR RESPONSIBILITY AND
ETHICS IN WASHINGTON,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF
HOMELAND SECURITY,

Defendant.

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Case No. 1:19-cv-3544 (APM)

**PLAINTIFF'S RESPONSE TO DEFENDANT'S
STATEMENT OF MATERIAL FACTS NOT IN DISPUTE**

1. CREW's FOIA request was dated August 18, 2017. Otherwise, the Statement accurately states the content of that request.
2. This is a summary of portions of the Holzer Declaration. A full statement is contained in his Declaration.
3. This is a correct statement of the disclosures made.
4. This is statement of law, not of fact.

Dated: August 28, 2020

Respectfully submitted,

/s/ Jeffrey S. Gutman

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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

CITIZENS FOR RESPONSIBILITY AND
ETHICS IN WASHINGTON,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF
HOMELAND SECURITY,

Defendant.

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Case No. 1:19-cv-3544 (APM)

DECLARATION OF JEFFREY S. GUTMAN

I, Jeffrey Gutman, hereby declare and state as follows:

1. I am a law professor at George Washington University Law School and serve as counsel for the Plaintiff in this matter.
2. In that capacity, I have received the two tranches of records disclosed by the Department of Homeland Security in response to CREW's August 18, 2017 FOIA request.
3. The first group is Bates numbered 1-695. Pages 1-275 are e-mails. Pages 276-687 are Katherine Gorka's calendar entries. Pages 688-695 are position descriptions.
4. The second group is Bates numbered DHS-001-3544-000001 through 001-3544-000370. These are more of Ms. Gorka's calendar entries.
5. Either I, my research assistant Elizabeth Bartlett, or both of us have reviewed these records and made particular note of certain data or characteristics of relevant pages of them.

6. In reviewing pages 1-275, Ms. Bartlett noted the Bates numbers of the emails which expressly mentioned a document attached to the e-mail and she noted the instances in which the attachment was or was not produced. Table 1 is a record of her review.
7. In reviewing pages 1-275, I noted the Bates numbers of the e-mails in which an e-mail is cc'ed to John Barsa prior to May 8, 2017. Table 2 is a list of those pages.
8. In reviewing DHS's disclosures, I noted the Bates numbers of the e-mails in which Mr. Barsa identifies himself in his e-mail footer as on the DHS Transition Team prior to May 8, 2017. Table 3 is a listing of those pages. I saw no e-mails sent by Mr. Barsa in which he is not so identified.
9. In reviewing the disclosures, Ms. Bartlett and I made note of the pages on which Mr. Barsa appears to reflect his active review of matters related to the CVE program. Table 4 is a list of those pages.
10. In reviewing the disclosures, Ms. Bartlett and I made note of the e-mails and calendar entries that reflected Ms. Gorka's meetings with high-level DHS official on matters related to CVE. A list of those pages are set forth in Table 5. The table references whether Mr. Barsa also attended.
11. In reviewing the disclosures, Ms. Bartlett and I noted pages in which, in context, it appears that the name of a high-level officer or employee of DHS was redacted on Exemption 6 grounds. Table 6 lists those pages and they are included in Exhibit 1.
12. Selected pages are attached as Exhibit 1. Parts A-D.

I declare under penalty of perjury that the foregoing is true and correct.



Jeffrey S. Gutman

Dated: August 24, 2020

Table 1

Email Attachments	
DHS Record Number	Action
1	Not attached
2	Not attached
3	Not attached
4	Not attached
19	Not attached
22	Not attached
24	Not attached
25	Not attached
26	Not attached
27	Not attached
28	Not attached
29	Not attached
30	Not attached
31	Not attached
32	Not attached
33	Not attached
34	Not attached
35	Not attached
37	Not attached
32	Not attached
43-49	Attachment redacted
67	Not attached
70	Not attached
78	Attachment redacted
83	Not attached
85	Not attached
86	Not attached
91	Not attached
102	Attachment redacted
103	Attachment redacted
116	Not attached
121	Not attached
126	Not attached
131	Attachment redacted
137	Not attached
141	Not attached
144	Not attached
151	Not attached
153	Not attached
155	Not attached

156	Attachment redacted
157	Not attached
158	Attachment redacted
159	Not attached
160	Attachment provided
169	Not attached
177	Not attached
184	Not attached
185	Not attached
191	Not attached
192	Not attached
193	Attachment redacted
197	Attachment redacted
198	Not attached
200	Attachment redacted
201	Not attached
203	Not attached
206	Not attached
207	Not attached
208	Not attached
214	Attachment provided
216	Not attached
225	Not attached
230	Not attached
232	Not attached
233	Not attached
235	Not attached
242	Not attached
244	Not attached
247	Not attached
248	Not attached
251	Not attached
260	Not attached
262	Not attached
263	Not attached
264	Attachment redacted
268	Not attached
270	Not attached
272	Not attached
273	Not attached

Table 2

Emails CC'ed to John Barsa prior to May 8, 2017
1
2
16
17
18
19
20
21
22
23
24
25
26-29
30
31
32
33
34-42
50
52-55
57
60
66-68
70-72
74-76
77
79
81
82
84
85
87-90
91-93
110-11
114
116
128
129
133
140-42
143-144
149

150-52
154
155
157
158
159
160
162
164-66 167-72
167-72
173-79
181
186-189
193
196
198
199-201
202-206
207-213
214-221
222-223
224-227
228-236
238
240-249
251
259-265
268-74

Table 3

Emails or Schedules Listing Barsa as Transition Team Member
19
20
29
34
37
55
56
86
112
113
115
157
164
166
172
190
197
201
203
207
213
222
223
226
231
242
245
249
DHS-001-3544-000006

Table 4

Emails or Schedules Showing Barsa Actively Reviewing CVE
18
20
25
28
30
32
33
56
85
86
90
110
156 157
180
191-92
195
196
201
214
217
226
230
233
238
242
287
293
310
335
368
390
397
407
416
DHS-001-3544-000006
DHS-001-3544-000007

Table 5

CVE Talks with High-Ranking Officials	
DHS Record	Barsa Included?
5	
13	
50	Yes
53	Yes
90	Yes
123	
171	Yes
185	Yes
188	Yes
193	Yes
195	Yes
218	Yes
227	Yes
259	Yes
268	Yes
561	
634	
648	
DHS-001-3544-000010	Yes
DHS-001-3544-000011	Yes
DHS-001-3544-000015	Yes
DHS-001-3544-000019	Yes
DHS-001-3544-000023	Yes

Table 6

Higher Level Person Name Redacted
21
30
31
32
171
217
227
231
259
648

From:	Gorka, Katie (b)(6)
To:	"Gersten, David (b)(6)
Subject:	RE: CVE WG call
Date:	2017/06/08 12:37:10
Priority:	Normal
Type:	Note

Thanks David! I'm not. That would be great if you could forward the details.

Katie

Katharine C. Gorka
Senior Advisor
Department of Homeland Security



From: Gersten, David
Sent: Thursday, June 8, 2017 12:36 PM
To: Gorka, Katie (b)(6)
(b)(6) Selim, George (b)(6)
Subject: RE: CVE WG call

Yes, definitely. Are you on the calendar invite? If not, I will forward the info.

David Gersten
Deputy, DHS-OCP



From: Gorka, Katie
Sent: Thursday, June 8, 2017 12:34 PM
To: (b)(6) Selim, George
(b)(6) Gersten, David (b)(6)
Subject: CVE WG call

EXHIBIT 1 PART A

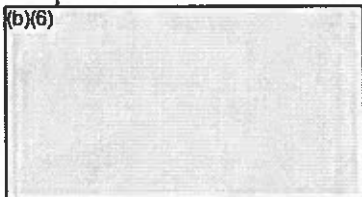
From:	Gorka, Katie (b)(6)
To:	"Gersten, David (b)(6)
Subject:	RE: re meeting
Date:	2017/08/11 12:13:11
Priority:	Normal
Type:	Note

David,

(b)(6) is sending you the invite.

K.

Katharine C. Gorka
Senior Advisor
Department of Homeland Security



From: Gersten, David
Sent: Friday, August 11, 2017 12:10 PM
To: (b)(6) Gorka, Katie (b)(6)
Cc: (b)(6)
Subject: RE: re meeting

Thanks for the connection Katie.

(b)(6) I travelled to Malaysia to train the SEARCCT on CVE in 2014 and to represent the US at the ministerial level regional summit on CVE in 2016. Please send me details or connect me to (b)(6) and I will participate if I can.

Thanks,

David

David Gersten
Acting Director, DHS-OCP

(b)(5)

(b)(5)

I think the memo should reflect that consensus, but I would like the pros and cons to be listed as well just so Sec. Kelly is clear on what may be coming down the road.

Katuic

Katharine C. Gorka
Advisor
Department of Homeland Security

(b)(6)

From: Selim, George

Sent: Tuesday, February 21, 2017 5:49 PM

To: Barsa, John (b)(6) Gorka, Katie (b)(6)

Cc: Gersten, David (b)(6)

Subject: RE: starting point

Yep, agree. We'll work through that and I'm open to tweaks on what I sent as needed. just wanted a starting point.

Katie, sound good?

From: Barsa, John

Sent: Tuesday, February 21, 2017 5:44 PM

To: Selim, George (b)(6) Gorka, Katie

(b)(6)

Cc: Gersten, David (b)(6)

Subject: RE: starting point

Haven't had a chance to confer w/ Katie but this doesn't seem like anything objectionable. We do need verbiage to explain the hold on everyone affected by the sanctuary city review and how we get to the number under review.

It's the options where we will be putting the "meat" it seems which is fine. I do think that we have previously agreed to some of the option language in other versions so that is good.

I'm not sure of the mechanics of how the Secretary chooses one option over another but that is a minor technical point.

From:	Gorka, Katie (b)(6)
To:	"Barsa, John (b)(6)" (b)(6) (b)(6) Gersten, David (b)(6) (b)(6) "Selim, George (b)(6)" (b)(6)
Subject:	RE: starting point
Date:	2017/02/22 13:16:22
Priority:	Normal
Type:	Note

Hold up! I misunderstand something from John...I am doing a quick fix and resending in 5 minutes

Katharine C. Gorka
Advisor
Department of Homeland Security
(b)(6)

From: Barsa, John
Sent: Wednesday, February 22, 2017 12:15 PM
To: (b)(6); Gersten, David (b)(6); Selim, George (b)(6); Gorka, Katie (b)(6)
Subject: RE: starting point

Katie and I are finishing up adding the options. Apologies for the delay. Stand by

John Barsa
DHS Transition Team
(b)(6)

From: (b)(6)
Sent: Wednesday, February 22, 2017 12:12 PM
To: Gersten, David (b)(6); Selim, George (b)(6)
Gorka, Katie (b)(6); Barsa, John (b)(6)
Subject: RE: starting point

Is this what I need to start from? Where is the team's last proposed version? (b)(6)

From: Gersten, David
Sent: Wednesday, February 22, 2017 11:34 AM
To: (b)(6); Selim, George (b)(6); Gorka,

From:	Gorka, Katie (b)(6) (b)(6)
To:	(b)(6) Barsa, John (b)(6) (b)(6)
CC:	"Selim, George (b)(6) (b)(6) Gersten, David (b)(6) (b)(6)
Subject:	RE: Final draft?
Date:	2017/02/23 07:17:26
Priority:	Normal
Type:	Note

(b)(5)

From: (b)(6)**Sent:** Wednesday, February 22, 2017 11:44:44 PM**To:** Gorka, Katie; Barsa, John**Cc:** Selim, George; Gersten, David**Subject:** RE: Final draft?

I will take a look. Please reiterate what you Katie and John support individually so I am not guessing.

No problem...I just won't be able to get to it til about 10...K.

From: (b)(6)

Sent: Wednesday, February 22, 2017 6:03:03 PM

To: Barsa, John

Cc: Scrim, George; Gersten, David; Gorka, Katie

Subject: RE: Final draft?

All, I got halfway thru the memo and had to go for pick up. I will be sending out edits around 830 pm tonight for a final review before getting

it to (b)(6) I will need OPC AND John and Katie to affirm clearance tonight.

I really don't want to go to the huddle without having sent it to (b)(6)

Thanks.

From: Barsa, John

Sent: Wednesday, February 22, 2017 3:29:58 PM

To: (b)(6)

Cc: Selim, George; Gersten, David; Gorka, Katie

Subject: Final draft?

I think this is it. Over to you (b)(6)

John Barsa

DHS Transition Team

(b)(6)

Sender:	Gorka, Katie (b)(6)
	(b)(6)
Recipient:	(b)(6)
	"Barsa, John (b)(6)
	(b)(6)
	"Selim, George (b)(6)
	(b)(6)
	"Gersten, David (b)(6)
Sent Date:	2017/02/23 07:17:25
	Delivered Date: 2017/02/23 07:17:26

From:	Gorka, Katie (b)(6)
To:	(b)(6) "Barsa, John (b)(6) (b)(6) "Selim, George (b)(6) (b)(6)
CC:	"Gersten, David (b)(6) (b)(6)
Subject:	RE: Final draft?
Date:	2017/02/23 09:09:12
Priority:	Normal
Type:	Note

(b)(6) this all looks great! Thank you!!

Katharine C. Gorka
Advisor
Department of Homeland Security

(b)(6)

From: (b)(6)
Sent: Thursday, February 23, 2017 9:01 AM
To: Barsa, John (b)(6) Selim, George (b)(6) Gorka, Katie
(b)(6)
Cc: Gersten, David (b)(6)
Subject: RE: Final draft?

Clean copy. Sarah

From: (b)(6)
Sent: Thursday, February 23, 2017 8:35 AM
To: Barsa, John (b)(6) Selim, George (b)(6) Gorka, Katie
(b)(6)
Cc: Gersten, David (b)(6)
Subject: RE: Final draft?

This is my counter and John was on the phone and John has approved – if Katie would opine that would be super:

(b)(5)

Subject: RE: Final draft?
Importance: High

How about:

(b)(5)

Please note the focus is now on moving forward with these grants as structured under the prior administration.

Please also note I added specifically John and Katie's name to add clarity for S1.

From: Barsa, John

Sent: Thursday, February 23, 2017 7:28 AM

To: (b)(6) Gorka, Katie (b)(6)

Cc: Selim, George (b)(6) Gersten, David (b)(6)

Subject: RE: Final draft?

(b)(5)

From: (b)(6)

Sent: Thursday, February 23, 2017 7:22:01 AM

To: Gorka, Katie; Barsa, John

Cc: Selim, George; Gersten, David

Subject: RE: Final draft?

Thanks all.

I got a late start today due to packing chaos (b)(6) send off to skiing this a.m. Final edits going in now...

Ok. So that last critical piece is correct and all are satisfied with it.

Now turning to Katie's earlier point re: the para right before the options piece. Before my edits that paragraph read:

(b)(5)

(b)(5)



Please advise soonest. Thanks

From: Gorka, Katie

Sent: Thursday, February 23, 2017 7:17 AM

To: (b)(6) Barsa, John (b)(6)

Cc: Selim, George (b)(6) Gersten, David (b)(6)

Subject: RE: Final draft?

(b)(5)



From: (b)(6)

Sent: Wednesday, February 22, 2017 11:44:44 PM

To: Gorka, Katie; Barsa, John

Cc: Selim, George; Gersten, David

Subject: RE: Final draft?

I will take a look. Please reiterate what you Katie and John support individually so I am not guessing.

From: Gorka, Katie

Sent: Wednesday, February 22, 2017 10:46:10 PM

To: (b)(6) Barsa, John

Cc: Selim, George; Gersten, David; (b)(6)

Subject: RE: Final draft?

(b)(5), (b)(6)



Thank you.

Also my thanks to (b)(6) for helping with my earlier question on the trump quote and to John for working on a different approach so that counsel would be able to take that concern off their list.

(b)(6)

From: Selim, George

Sent: Wednesday, February 15, 2017 4:11 PM

To: (b)(6) Barsa,

John (b)(6); Gorka, Katie (b)(6)

(b)(6) Gersten, David (b)(6)

Subject: RE: FLASH CLEARANCE - I WANT NUCLEAR OBJECTIONS ONLY

Yes. Working to get you back something now, need another 15min.

From: (b)(6)

Sent: Wednesday, February 15, 2017 4:11 PM

To: Selim, George (b)(6) Barsa,

John (b)(6); Gorka, Katie (b)(6)

(b)(6) Gersten, David (b)(6)

Subject: RE: FLASH CLEARANCE - I WANT NUCLEAR OBJECTIONS ONLY

Hi All,

Clock is ticking. Do any of you have any objection to the attached documents? We need to get these to Exec Sec shortly. Thanks (b)(6)

From: (b)(6)

Sent: Wednesday, February 15, 2017 3:33 PM

To: Selim, George (b)(6) Barsa,

John (b)(6); Gorka, Katie (b)(6)

(b)(6) Gersten, David

(b)(6)

Subject: FLASH CLEARANCE - I WANT NUCLEAR OBJECTIONS ONLY

Hi folks – I've done my best. Here it is for flash clearance which I will then lob over to OCP to place in a memo format selim memo to S1 per Alan's instruction. NUCLEAR ISSUE only please. It is due to Alan at 5 pm.

Pasted for those on mobile, see below:

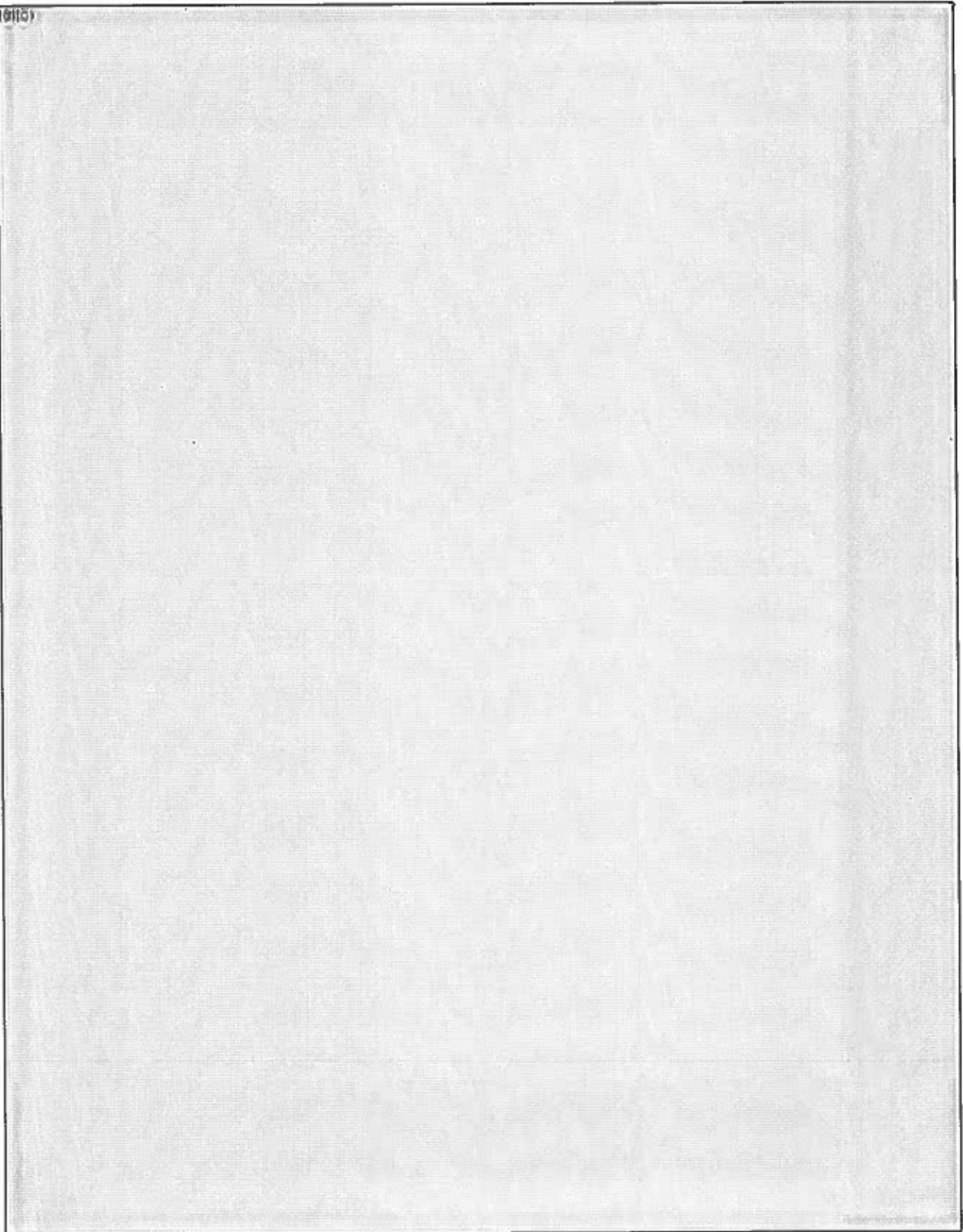
Secretary's Decision Paper

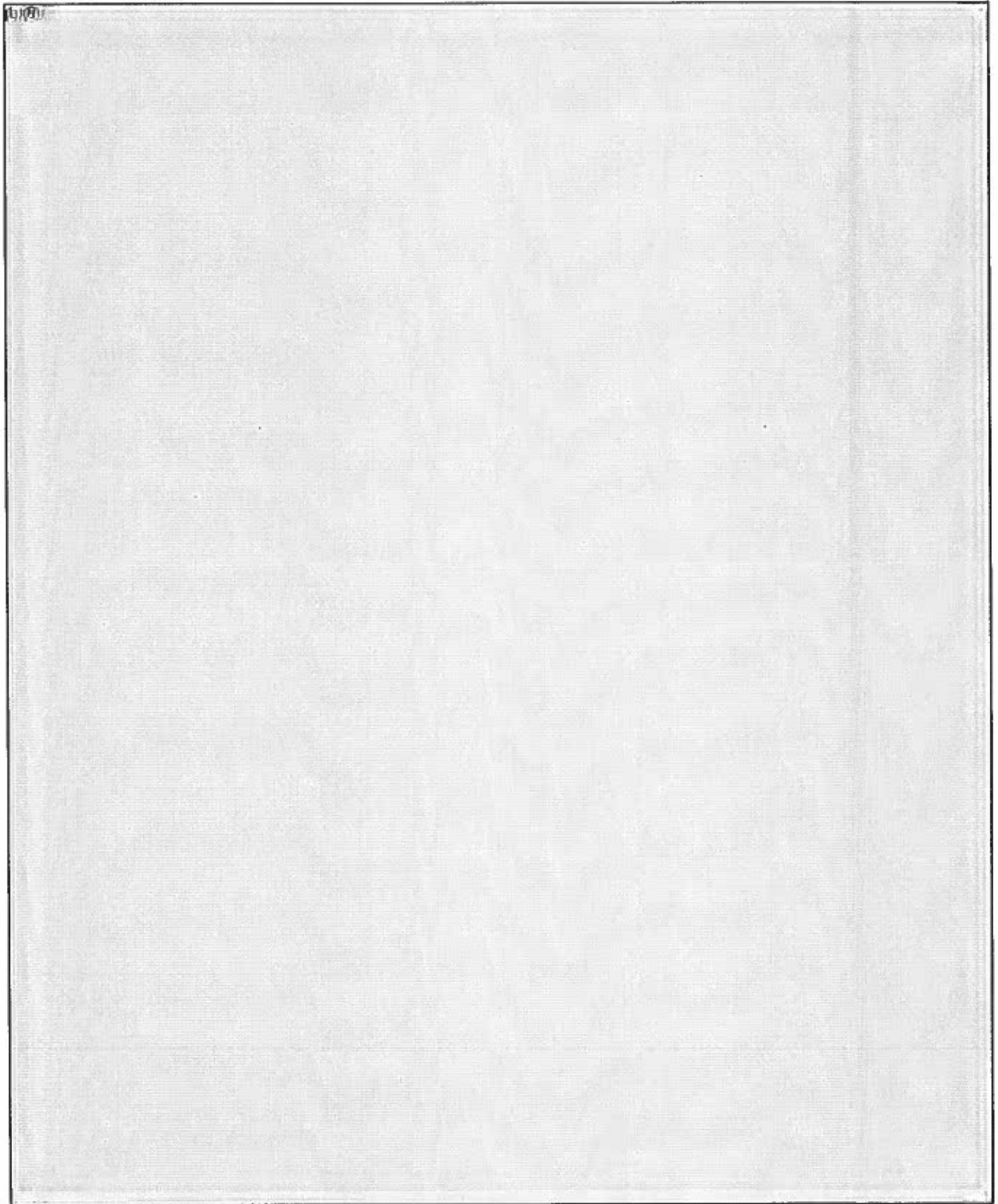
Countering Violent Extremism Grant Program: Award Processing

(b)(5)



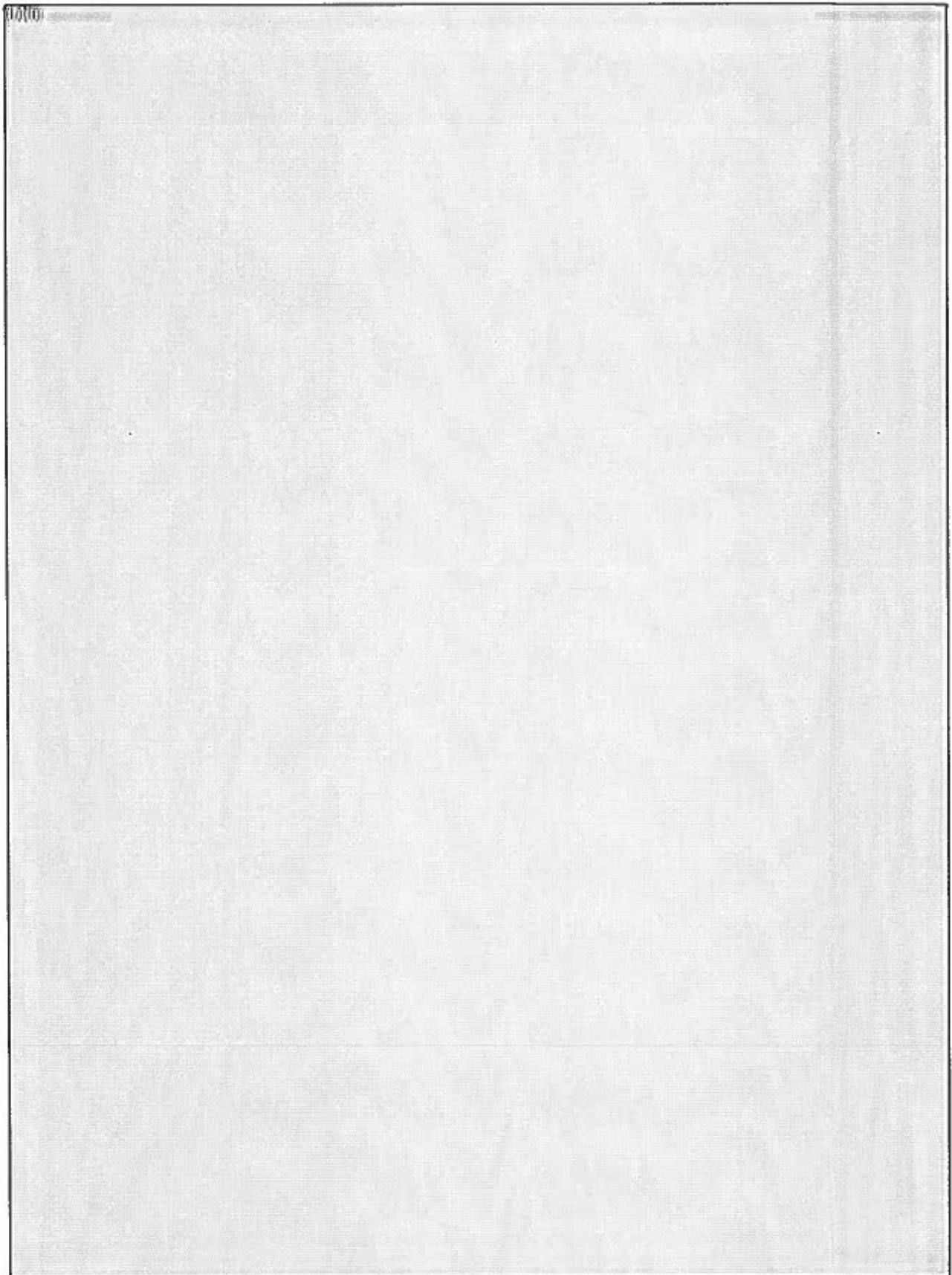
(b)(1)

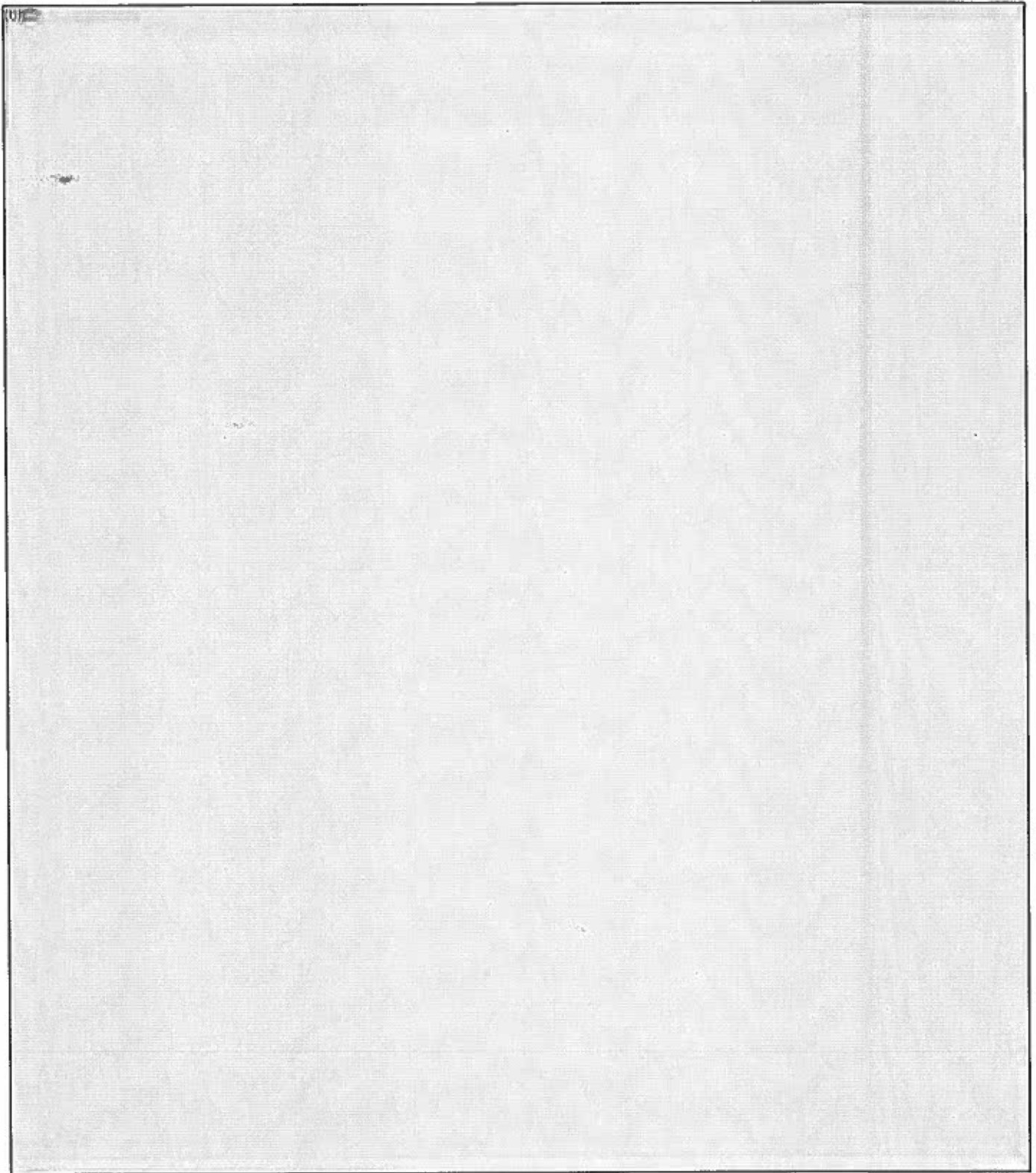




(b)(6)







155

(b)(6)



**Counselor
Office of the Secretary
Department of Homeland Security**

(b)(6)

(b)(6)

Donald Trump's Speech, August 15, 2016. <http://www.politico.com/story/2016/08/donald-trump-terrorism-speech-227025>

Strategic Implementation Plan for Empowering Local Partners to prevent Violent Extremism in the United States, The White House, October 2016, p. 3.

US National Counterterrorism Center, *Counterterrorism Digest*, August 18-24, 2016, p. 3.

Before the recipients were communicated to Congress, the Appropriations Committees reaffirmed their support for CVE grant funding for \$10-50 million in the House and \$50 million in the Senate for FY17. In their appropriation bills the House provided \$50 million for two programs, the CVE program and one that deals with preparing first responder to respond to terrorist attacks. Their report language was unclear if the current division of \$10 million for CVE and \$40 million for the other program should stand, or if the funds would allow the Secretary discretion to divide as needed. The Senate provided \$50 for CVE grants alone. Currently DHS have no visibility into conference negotiations that would provide clarity on the discrepancy between House and Senate.

Homeland Security Act of 2002 Sec. 101(b)(1) and (2) P.L. 107-296

Sender:	Gorka, Katie (b)(6) (b)(6)
Recipient:	(b)(6)
	Barsa, John (b)(6)
	(b)(6)
	(b)(6)
	Selim, George (b)(6)
	(b)(6)
	(b)(6)
	Gersten, David (b)(6)
	(b)(6)
Sent Date:	2017/02/16 09:22:58
Delivered Date:	2017/02/16 09:22:59

DCOS Metzler would like to have a meeting today at 2pm to discuss the CVE memo.
Please let me know if you are available to participate at that time.

Respectfully,

(b)(6)

U.S. Department of Homeland Security

(b)(6)

Sender:	Gorka, Katie (b)(6) (b)(6)
Recipient:	(b)(6) "Selim, George (b)(6) (b)(6) "Gersten, David (b)(6) (b)(6) "Barsa, John (b)(6) (b)(6)
Sent Date:	2017/02/21 09:02:36

(b)(5)

(b)(6)

David Grannis
Principal Deputy Under Secretary
Office of Intelligence and Analysis
Department of Homeland Security

(b)(6)

From: Barsa, John
Sent: Wednesday, February 1, 2017 5:17 PM
To: Selim, George (b)(6)
Cc: Gorka, Katie (b)(6)
Subject: Security docs for intended CVE grant awardees

George and/or (b)(6)

Would it be possible for Katie and I to see any background checks or reports that were done on the NGOs that are among the intended CVE grant recipients?

Thanks in advance for any and all assistance.

Best regards,

John

John Barsa
DHS Transition Team

(b)(6)

Sender:	Gorka, Katie (b)(6)
Recipient:	(b)(6)

Sent: Tuesday, May 23, 2017 11:10:39 AM

To: Selim, George; Gorka, Katie

Subject: RE: Sync today

Endorse the thought – worried about the calendar. I'll be at the CTAB meeting with you (and a budget meeting w/ you too I think) and can huddle with you before or after. Katie?

I thought we were going to be in "receive mode" mostly.

From: Selim, George

Sent: Tuesday, May 23, 2017 11:03 AM

To: Barsa, John (b)(6) Gorka, Katie (b)(6)

Subject: Sync today

Good morning, can the three of us do a sync at 2pm today ahead of meeting with S1? Just want to make sure we are able to go in with a game plan.

Thanks,

George

EXHIBIT 1

PART B

I did my best to faithfully alert the Secretary to all the concerns raised, I'd welcome your edits/feedback.

Process: once you send me back edits or clearance I will push to ESEC asap.

Thanks for your patience,

From: Selim, George

Sent: Thursday, February 16, 2017 3:00 PM

To: Gorka, Katie (b)(6) Barsa, John (b)(6)

Cc: (b)(6)

Subject: heads up-

Will be sending an updated memo in the next 30min or so. If you can be free 3:30-5pm-ish that would be ideal.

Thanks,

All, my thanks to OCP for putting forward this DRAFT ONLY for first discussion and comments.

Please provide comments to George and myself so all have visibility. It would be great if agreement or consensus way forward could be reached. If not we'll outline all the various views for the leadership and move the issues forward to COS and DCOS.

Many thanks.

(b)(6)

DRAFT Statement for S1:

(b)(5)



I may be calling any/all of you as I sweep through the document this afternoon.

I will work very diligently to keep the document factual, representative of all viewpoints, and consistent with OGC guidance.

Alan has given guidance that George Selim as the program manager is to sign the document as a memo from OCP Director to him.

Exec Sec will get the document and send it around for flash clearance this afternoon.

Many thanks!

(b)(6)

From: (b)(6)

Sent: Wednesday, February 15, 2017 10:38 AM

To: Selim, George (b)(6) Barsa, John

(b)(6) Gersten, David (b)(6)

(b)(6)

Subject: RE: grant doc v5 w/OGC edits

Please find attached some quick suggested edits based on discussions with my team. Once we have a more final version, I would like to have the OGC team take a look at this, and (b)(6) requested visibility with the final version.

Thank you,

(b)(6)

~~This message and any attachments may contain attorney-client communications, attorney work product, and agency deliberative communications, all of which may be privileged and not subject to disclosure outside the agency or to the public. Please consult with the Department of Homeland Security, Office of General Counsel before disclosing any information contained in this email.~~

From: Selim, George

Sent: Wednesday, February 15, 2017 10:08 AM

To: Barsa, John (b)(6) Gersten, David

(b)(6)

(b)(6)

Subject: RE: grant doc v5 w/OGC edits

John/Katie, thanks very much for this.

(b)(6) please see attached. This is OCP edits plus edits from OGC which we just incorporated. This version is the most updated for you to work your magic on.

Keep us posted, thank you.

From: Barsa, John
Sent: Tuesday, February 14, 2017 11:25 PM
To: Selim, George (b)(6); Gersten, David
(b)(6)
(b)(6)
Subject: FW: grant doc

In order to keep the ball rolling attached please find our edits. There are other portions of the document which I have strong objections to. I look forward to continued amicable discussions as we drive towards a document representing everyone's views.

From: Barsa, John
Sent: Tuesday, February 14, 2017 9:46:27 PM
To: Gorka, Katie
Subject: RE: grant doc

John Barsa
DHS Transition Team
(b)(6)

From: Gorka, Katie
Sent: Tuesday, February 14, 2017 6:11 PM
To: Barsa, John (b)(6)
Subject: grant doc

Katharine C. Gorka

(b)(6)

Sender:	Gersten, David (b)(6) (b)(6)
Recipient:	(b)(6)

DCOS Metzler would like to have a meeting today at 2pm to discuss the CVE memo.
Please let me know if you are available to participate at that time.

Respectfully,

(b)(6)

U.S. Department of Homeland Security

(b)(6)

Sender:	Gersten, David (b)(6) (b)(6)
Recipient:	"Selim, George (b)(6)
	(b)(6)
	"Barsa, John (b)(6)
	(b)(6)
	"Gorka, Katie (b)(6) (b)(6)
Sent Date:	2017/02/21 09:03:07
Delivered Date:	2017/02/21 09:03:08

From:	Gersten, David (b)(6)
To:	"Gorka, Katie (b)(6) (b)(6) Barsa, John (b)(6) (b)(6)
CC:	"Selim, George (b)(6) (b)(6)
Subject:	S1 Memo on Effective Programs
Date:	2017/03/24 16:45:13
Priority:	Normal
Type:	Note

Katie and John,

We understood that this memo would be shared with you as it was sent to the Front Office. Sorry to hear that didn't happen.

Looking forward to working together next week. Have a great weekend,

David

Sender:	Gersten, David (b)(6)
Recipient:	"Gorka, Katie (b)(6) (b)(6) Barsa, John (b)(6) (b)(6) "Selim, George (b)(6) (b)(6)
Sent Date:	2017/03/24 16:45:12
Delivered Date:	2017/03/24 16:45:13

I was also told that in January, Sec. Kelly's office told the CVE office that there would be a review of the CVE program, and the groups that were announced as awardees in January would be reverted.

Can you confirm?

Thanks,

(b)(6)

On Mon, Aug 14, 2017 at 12:32 PM (b)(6)

(b)(6) wrote:

Thanks (b)(6) I'm planning to publish around 5pm today, so before then would be great.

On Mon, Aug 14, 2017 at 12:01 PM, (b)(6) wrote:

Hi (b)(6)

Thank you for your inquiry. We are working on this and will get back to you as soon as possible.

Thanks,

(b)(6)

From: (b)(6)

Sent: Monday, August 14, 2017 11:05 AM

To: (b)(6)

Cc:

Subject: RE: Life After Hate/CVE

Hi (b)(6)

I've moved back over to focus on cyber and infrastructure issues. Adding my colleagues who can help with CVE questions.

(b)(6)

From: (b)(6)

Sent: Monday, August 14, 2017 11:04 AM

To: (b)(6)

Subject: Life After Hate/CVE

Hi (b)(6),

Why was Life After Hate not given any CVE grant funding when the grant program was restarted earlier this year? Correct me if I'm wrong, but it does not

(b)(6)



Drafted by John Barsa and Katie Gorka

From: Barsa, John

Sent: Monday, February 13, 2017 11:07 AM

To: (b)(6) Gorka, Katie (b)(6) Selim,

George (b)(6) Metzler, Alan (b)(6)

Subject: RE: (No Subject)

(b)(6) et al,

Katie and I have edited George's first draft and have come up with two documents. One is longer and may be more suitable for Hill inquiries. The other is shorter and may be more suitable for press inquiries. They are attached.

John

John Barsa

DHS Transition Team

(b)(6)

From: (b)(6)

Sent: Sunday, February 12, 2017 10:09 PM

To: Barsa, John (b)(6) Gorka, Katie (b)(6) Selim, George

(b)(6); Metzler, Alan (b)(6)

Subject: RE: (No Subject)

Katie,

I understand both of your perspectives and I respect your perspectives. Can you provide edits to make the statement and acceptable document from your perspective. Thank you very much and appreciate your time on a Sunday evening. (b)(6)

From: Barsa, John

Sent: Sunday, February 12, 2017 10:04:13 PM

To: Gorka, Katie; (b)(6) Selim, George; Metzler, Alan

Cc: (b)(6)

Subject: RE: (No Subject)

I wholeheartedly concur.

From: Gorka, Katie

Sent: Sunday, February 12, 2017 9:58:53 PM

To: (b)(6) Selim, George; Barsa, John; Metzler, Alan

Cc: (b)(6)

Subject: RE: (No Subject)

Do we have the recent letter w/ the multiple signatories?

Thanks (b)(6)

**Counselor
Office of the Secretary
Department of Homeland Security**

(b)(6)

Sender:	Selim, George (b)(6) (b)(6)
Recipient:	(b)(6) "Barsa, John (b)(6) (b)(6) "Gorka, Katie(h)(6) (b)(6) "Corbin, Susan(b)(6) (b)(6)
Sent Date:	2017/02/23 18:50:16

From:	Selim, George (b)(6)
	(b)(6)
	(b)(6)
To:	"Gorka, Katie (b)(6)
	(b)(6)
	"Barsa, John (b)(6)
	(b)(6)
Subject:	RE: Arrival of draft memo?
Date:	2017/02/22 07:57:21
Priority:	Normal
Type:	Note

Good morning (b)(6)

I circulated a base memo for you to start from yesterday to the team. John Barsa cleared but I don't believe we have heard from Katie. As soon as I do I'll send over the language.

Thanks,

George

From: (b)(6)

Sent: Wednesday, February 22, 2017 6:22:19 AM

Media is calling and asking for DHS comment on the issue. I've spoken with the U.S. Attorney in Denver, who cleared on the below draft statement. Due to several other ongoing cases and investigations related to the individual, DOJ has asked us to be relatively circumspect in our response.

Please let me know if you have any issues or concerns with the below:

(b)(5)

Many thanks!

(b)(6)

(b)(6)

Press Secretary (Acting)
Department of Homeland Security

(b)(6)

Sender:	Selim, George (b)(6) (b)(6)
Recipient:	(b)(6)
	Gersten, David (b)(6)
	(b)(6)
	Gorka, Katie (b)(6)
	(b)(6)
	Carroll, Kevin (b)(6)
	(b)(6)
	Metzler, Alan (b)(6) (b)(6)
Sent Date:	2017/02/02 18:16:46
Delivered Date:	2017/02/02 18:16:00

From:	Selim, George (b)(6)
	(b)(6)
To:	"Barsa, John (b)(6)
	(b)(6)
	(b)(6)
	(b)(6)
	(b)(6)
	"Gersten, David (b)(6)
	(b)(6)
	Gorka, Katie (b)(6)
	(b)(6)
Subject:	RE: DCOS Meeting - Today
Date:	2017/02/21 08:59:10
Priority:	Normal
Type:	Note

Same, I am available-

From: Barsa, John
Sent: Tuesday, February 21, 2017 8:59 AM
To: (b)(6)
(b)(6) Selim, George (b)(6); Gersten,
David (b)(6) Gorka, Katie (b)(6)
Subject: RE: DCOS Meeting - Today

I am available.

From: (b)(6)
Sent: Tuesday, February 21, 2017 8:43:48 AM
To: (b)(6) Selim, George; Gersten, David; Barsa, John; Gorka, Katie
Subject: DCOS Meeting - Today

Good morning all!

DCOS Metzler would like to have a meeting today at 2pm to discuss the CVE memo.
Please let me know if you are available to participate at that time.

Respectfully,

(b)(6)
U.S. Department of Homeland Security
(b)(6)

Sender:	Selim, George (b)(6)
	(b)(6)

From:	Selim, George (b)(6)
To:	"Barsa, John (b)(6) (b)(6) "Gersten, David (b)(6) (b)(6) "Gorka, Katie (b)(6) (b)(6)
CC:	(b)(6) (b)(6)
Subject:	RE: [Reminder] AS2BB - 02.06.17 - Briefing on Grant Metrics (Due: 02.03.17, 1000)
Date:	2017/02/03 18:03:55
Priority:	Normal
Type:	Note

Hi John, here is the info we have as of today:

(b)(5)

From: Barsa, John

Sent: Friday, February 3, 2017 5:42 PM

To: Gersten, David (b)(6); Gorka, Katie (b)(6)

Cc: (b)(6); Selim, George (b)(6)

(b)(6)

Subject: RE: [Reminder] AS2BB - 02.06.17 - Briefing on Grant Metrics (Due: 02.03.17, 1000)

George and David,

Is there any updated information about intended awardees withdrawing their applications?

John

John Barsa
DHS Transition Team

(b)(6)

From: Gersten, David

Sent: Friday, February 3, 2017 12:59 PM

To: Barsa, John (b)(6) Gorka, Katie (b)(6)

Cc: (b)(6) Selim, George (b)(6)

(b)(6)

Subject: RE: [Reminder] AS2BB - 02.06.17 - Briefing on Grant Metrics (Due: 02.03.17, 1000)

(b)(6)

Please send the dashboard.

Thanks

David

From: Barsa, John

Sent: Friday, February 03, 2017 12:56:20 PM

To: Gersten, David; Gorka, Katie

Cc: (b)(6) Selim, George; (b)(6)

Subject: RE: [Reminder] AS2BB - 02.06.17 - Briefing on Grant Metrics (Due: 02.03.17, 1000)

David,

Thank you for sharing this with us.

Katie and I do not wish to make any edits at this point.

May we see the referenced attachment "CVE Grant Program Metrics Dashboard"?

Also, are there any developments regarding intended grant recipients withdrawing their applications?

John

John Barsa

DHS Transition Team

(b)(6)

From: Gersten, David

Sent: Friday, February 3, 2017 12:16 PM

To: Gorka, Katie (b)(6) Barsa, John (b)(6)

Cc: (b)(6) Selim, George (b)(6)

(b)(6)

Subject: FW: [Reminder] AS2BB - 02.06.17 - Briefing on Grant Metrics (Due: 02.03.17, 1000)

Hi Katie and John,

Per instructions from ExecSec, please review the attached memo for AS2. We will need half an hour to adjudicate any edits you have so please return by 2:30.

Thanks,

David

David Gersten
Deputy, DHS-OCP

(b)(6)

From: (b)(6)
Sent: Friday, February 3, 2017 12:06 PM
To: Gersten, David (b)(6)
Subject: FW: [Reminder] AS2BB - 02.06.17 - Briefing on Grant Metrics (Due: 02.03.17, 1000)

For coordination.

From: (b)(6)
Sent: Friday, February 3, 2017 11:55 AM
To: (b)(6)
Cc: (b)(6)
(b)(6)
Subject: RE: [Reminder] AS2BB - 02.06.17 - Briefing on Grant Metrics (Due: 02.03.17, 1000)

OCP – the Front Office has a few of questions in this briefing memo. They would also like to ensure that John Barsa and Katie Gorka at I&A have had a chance to review. So can you please add them to your coordination email. Can you please address and return, in redline, with any Component edits by 3:00pm. Thanks.

(b)(6)

From: (b)(6)
Sent: Thursday, February 2, 2017 12:16 PM
To: (b)(6)
Cc: (b)(6)
(b)(6) (b)(6) (b)(6) (b)(6)
(b)(6) (b)(6)
Subject: AS2BB - 02.06.17 - Briefing on Grant Metrics (Due: 02.03.17, 1000)

Materials must be submitted at least 48 hours in advance of the meeting to allow time for front office counselor review and delivery to the Chief of Staff's office the morning prior to the event date.

All materials must be formatted to comply with the attached templates

(b)(5)



(b)(5)



(b)(6)



Office of the Executive Secretary
Department of Homeland Security

(b)(6)



Sender:	Selim, George (b)(6)
	(b)(6)
Recipient:	"Barsa, John (b)(6)

From:	Selim, George (b)(6)
To:	"Barsa, John (b)(6) (b)(6)
CC:	"Gorka, Katie (b)(6) (b)(6)
Subject:	RE: soft copy of grant recipient list?
Date:	2017/01/23 15:11:18
Priority:	Normal
Type:	Note

Yes, just sent. Sorry meeting with the Secretary went long. Let me know if you need anything further.

From: Barsa, John
Sent: Monday, January 23, 2017 3:01 PM
To: Selim, George (b)(6)
Cc: Gorka, Katie (b)(6)
Subject: soft copy of grant recipient list?

George,

Sorry to bother...

Do you have an electronic copy of the list of intended grant recipients that you shared w/ Katie and I on the 13th?

Thanks in advance!

John

Sender:	Selim, George (b)(6)
Recipient:	"Barsa, John (b)(6) (b)(6) "Gorka, Katie (b)(6) (b)(6)
Sent Date:	2017/01/23 15:11:17
Delivered Date:	2017/01/23 15:11:18

From:	Selim, George (b)(6)
To:	(b)(6) "Barsa, John (b)(6) (b)(6) "Gorka, Katie (b)(6) (b)(6) "Metzler, Alan (b)(6) (b)(6)
CC:	"Gersten, David (b)(6) (b)(6)
Subject:	RE: (No Subject)
Date:	2017/02/13 14:25:51
Priority:	Normal
Type:	Note

Sorry, I do not but can create one after our meeting.

From: (b)(6)
Sent: Monday, February 13, 2017 2:25 PM
To: Selim, George (b)(6) Barsa, John (b)(6) Gorka, Katie (b)(6) Metzler, Alan (b)(6)
Cc: Gersten, David (b)(6)
Subject: RE: (No Subject)

George do you have a redline for either of these documents? That would be helpful for a transparent view of what was cut or not? Thanks

From: Selim, George
Sent: Monday, February 13, 2017 2:22 PM
To: Barsa, John (b)(6) Gorka, Katie (b)(6) Metzler, Alan (b)(6)
Cc: Gersten, David (b)(6)
Subject: RE: (No Subject)

John, thanks again. Overall very helpful. I made some adjustments and have attached "v2," and pasted it below. One note on length: typically, press statements are no longer than a one bullet point as issued by DHS historically. Two or three sentences at most. The statement John and Katie provided is four paragraphs with twenty-three lines of text, I tried to cut this down slightly. My understanding of the task was to develop a short statement that could be issued to some press outlets, not a full press release. We'll need a steer from OPA on this.

(b)(5)

From:	Selim, George (b)(6)
To:	"Barsa, John (b)(6) Gorka, Katie (b)(6) (b)(6)
CC:	"Gersten, David (b)(6) (b)(6)
Subject:	RE: Hill Response
Date:	2017/02/15 15:56:20
Priority:	Normal
Type:	Note

Copy, thank you.

Katie, please free to weigh in if you get this email in the next few hours.

From: Barsa, John
Sent: Wednesday, February 15, 2017 3:55 PM
To: Selim, George (b)(6) Gorka, Katie
 (b)(6)
Cc: (b)(6) Gersten, David
 (b)(6)
Subject: RE: Hill Response

George.

Katie is out of pocket for the remainder of the day.

I reviewed the responses. They seem fine to be. Feel free to fire for effect as far as I'm concerned...

John

John Barsa
 DHS Transition Team
 (b)(6)

From: Selim, George
Sent: Wednesday, February 15, 2017 3:46 PM
To: Barsa, John (b)(6) Gorka, Katie (b)(6)
Cc: (b)(6) Gersten, David
 (b)(6)
Subject: Hill Response

Would like at least 48hrs notice to pull together briefers and material for you. Also looping in Associate Director (b)(6) from our team to help on the contract/field support brief.

Thanks,

From: Selim, George

Sent: Wednesday, March 1, 2017 11:11 AM

To: Barsa, John (b)(6) Gorka, Katie (b)(6)

Cc: Gersten, David (b)(6)

Subject: OCP and CVETF meeting

John, good talking to you yesterday.

As discussed and I went through and canvassed our calendars to share. Below and attached you will find two categories of info, the first is scheduled meetings and the second is proposed meetings/briefings to get you both fluent in domestic and interagency CVE work.

Please consider this a menu to choose from, if you think of something else you want let me and David know and we'll find a way to make it happen. Also, if you are interested in my recommendations I suggest you start with #2 of proposed briefings to get a deep-dive on the CVE Task Force, this will be a comprehensive brief that would be a good set-up for many follow on conversations.

Thanks,

George

**DHS Office for Community Partnerships and
CVE Task Force**

Wednesday, March 1, 2017

Meetings Already Scheduled:

1. Tuesday March 7, Office for Community Partnerships Weekly Staff Meeting. This is a weekly meeting we convene for a 30min staff meeting hosted by the Director at 11am on Tuesday's. If David or George is out or unavailable this will be rescheduled for later in the week.
2. Wednesday March 8, Office for Community Partnerships Programs/Policy/Research meeting – bi-weekly meeting for staff covering ongoing projects. This is a weekly meeting chaired by Deputy Director David Gersten and Associate Director (b)(6) on Wednesday afternoon's.
3. Tuesday March 14, Noon – 4:00pm: Homeland Security Academic Advisory Committee (HSAAC) Academic Subcommittee on CVE meeting on March 14.
4. Thursday March 23, 1:00pm – 2:30pm: CVE Task Force Research and Analysis Line of Effort Monthly Meeting, special guest (b)(6) Office for the Secretary of Defense, Minerva Research Initiative

From:	Selim, George (b)(6)
To:	(b)(6) "Gorka, Katie (b)(6) (b)(6) Gersten, David (b)(6) (b)(6) Barsa, John (b)(6) (b)(6)
CC:	(b)(6)
Subject:	RE: CVE outline for S1 Brief.
Date:	2017/02/14 12:49:19
Priority:	Normal
Type:	Note

Hi (b)(6) please see the draft OCP memo attached for your review. As of hitting send on this email we have not received anything from John and Katie, but I know they are likely in a training.

Also attached are the draft responses for approps staff. This version has been cleared by FEMA, OGC, and CFO.

See you at 3pm-

From: (b)(6)
Sent: Monday, February 13, 2017 4:27 PM
To: Gorka, Katie (b)(6); Selim, George
(b)(6); Gersten, David (b)(6)
Barsa, John (b)(6)
Cc: (b)(6)
Subject: CVE outline for S1 Brief.
Importance: High

Hi All,

If I could get a version of the document from you all before our three p.m. meeting (which I will send a calendar invite for shortly) I would be grateful.

Attached is the outline we discussed. I have assigned a lot of the preliminary work to OCP as they do have a lot of the preliminary data/predrafted language.

Please note that in the options sections where there are pros and cons Katie and John should send your input to George and company so that they can include that language in their draft. NO NEED TO WAIT.

Please also note that there are two places in the document where Katie and John are asked to lay out the current review process undertaken under the new administration – the Background section and the grant program section.

Again, three pages max and we have a lot of ground to cover so please pack a lot into a little if you can.

Many thanks, (b)(6)

**Counselor
Office of the Secretary
Department of Homeland Security**

(b)(6)

Sender:	Selim, George (b)(6) (b)(6)
Recipient:	(b)(6) "Gorka, Katie (b)(6) (b)(6) "Gersten, David (b)(6) (b)(6) "Barsa, John (b)(6) (b)(6)
Sent Date:	2017/02/14 12:49:18
Delivered Date:	2017/02/14 12:49:19

From:	Selim, George (b)(6)
To:	"Barsa, John (b)(6)
CC:	"Gorka, Katie (b)(6)
Subject:	RE: CVE Task force mtg?
Date:	2017/03/02 11:20:46
Priority:	Normal
Type:	Note

(b)(6) Yes, you are kinda correct. We are doing an off-site meeting this afternoon with some staff from OCP, CVETF, and a few another offices. The focus of the meeting is not CVE policy, programs, but rather managing change through a transition, working on contentious issues, and views on different leadership styles. We are also doing a few team building exercises. I like to try to get my team out of the office for a few hours at least once a quarter.

I've invited in a few guest speakers discuss their perspectives, Dan being one of them. Happy to discuss further as I'm still at the NAC.

From: Barsa, John
Sent: Thursday, March 2, 2017 11:08 AM
To: Selim, George (b)(6)
Cc: Gorka, Katie (b)(6)
Subject: RE: CVE Task force mtg?

Someone told me there was a CVE meeting today that (b)(6) was speaking at. Must have been bad intel. No CVE mtgs today?

From: Selim, George
Sent: Thursday, March 02, 2017 11:06:05 AM
To: Barsa, John
Cc: Gorka, Katie
Subject: RE: CVE Task force mtg?

Negative, no TF meetings scheduled for today or tomorrow. Anything you need input on?

From: Barsa, John
Sent: Thursday, March 2, 2017 9:51 AM
To: Selim, George (b)(6)
Cc: Gorka, Katie (b)(6)
Subject: CVE Task force mtg?

George

(b)(6)

From: Barsa, John

Sent: Tuesday, February 7, 2017 5:03 PM

To: (b)(6) Selim, George

(b)(6)

Cc: Gorka, Katie (b)(6)

(b)(6)

Subject: RE: ETA on the Memo

George et al.

FYI

If the memo is to be confined to security screening, the "Houston" issue is the only one Katie and I have concerns over.

If this memo is to cover efficiencies, our concerns are plethora and this memo gets very complicated.

John

John Barsa

DHS Transition Team

(b)(6)

From: (b)(6)

Sent: Tuesday, February 7, 2017 4:14 PM

To: Selim, George (b)(6)

Cc: Gorka, Katie (b)(6) Barsa, John (b)(6)

Grannis, David (b)(6)

Subject: ETA on the Memo

Importance: High

Hi George – I'm trying to gauge ETA on the memo that was tasked this afternoon. I understand that Alan had an additional chat with you and now the memo is to cover:

1. Screening; and
2. Efficiencies in the program – connecting the grant money w/ the key requirements of the program/goals of the program.

(b)(5)

Please advise as to when we will all need to review the memo. I will be in the scif til about 4:45 and then off comms til 6 pm. I'll be able review after 6 pm.

(b)(6)

**Counselor
Office of the Secretary
Department of Homeland Security**

(b)(6)

Sender:	Selim, George (b)(6)
	(b)(6)
Recipient:	(b)(6)
	"Barsa, John (b)(6)
	(b)(6)
	"Gorka, Katie (b)(6)
	(b)(6)
Sent Date:	2017/02/07 18:38:16
Delivered Date:	2017/02/07 18:38:17

(b)(6) my recommendation is to include a sentence to this effect:

(b)(5)

From: Barsa, John
Sent: Friday, March 03, 2017 1:15:47 PM
To: (b)(6); Selim, George; Gorka, Katie
Cc: Metzler, Alan; Gersten, David
Subject: RE: updated cve memo: need all redlines by tomorrow at noon so to get new version to COS by 5 pm on Friday, Tomorrow

Understand (b)(6) I don't think it would take long to agree on language before the ESEC process.

From: (b)(6)
Sent: Friday, March 03, 2017 1:13:19 PM
To: Barsa, John; Selim, George; Gorka, Katie
Cc: Metzler, Alan; Gersten, David
Subject: RE: updated cve memo: need all redlines by tomorrow at noon so to get new version to COS by 5 pm on Friday, Tomorrow

Point of clarification: all of you will be asked via ESEC process to clear the final on your own signature. ESEC will be the arbiter of that process. No concerns about that.

I understand George's point and would welcome his language to frame the point in the memo.

Thanks!

(b)(6)

From: Barsa, John
Sent: Friday, March 3, 2017 1:04 PM
To: (b)(6); Selim, George (b)(6)
Gorka, Katie (b)(6)
Cc: Metzler, Alan (b)(6); Gersten, David (b)(6)
Subject: RE: updated cve memo: need all redlines by tomorrow at noon so to get new version to COS by 5 pm on Friday, Tomorrow

I'm fine with George's edits as they do not seem to conflict with mine.

Generally speaking, I'm not averse to George making a point to SI that he was not

comfortable giving S1 options while Katie and I were. That being said, if we are adding any new language regarding his point I want to see it before I sign off on this as "final".

From: (b)(6)
Sent: Friday, March 03, 2017 12:58:59 PM
To: Selim, George; Barsa, John; Gorka, Katie
Cc: Metzler, Alan; Gersten, David
Subject: RE: updated cve memo: need all redlines by tomorrow at noon so to get new version to COS by 5 pm on Friday, Tomorrow

George,

I understand your point.

If you assess this is important I welcome your edit to the document. It would not be correct for me to try and formulate this language on your behalf.

Do I have OCP's final edits or would you like to style a further note on the point you raise below?

Thanks (b)(6)

From: Selim, George
Sent: Friday, March 3, 2017 12:35 PM
To: Barsa, John (b)(6) Gorka, Katie (b)(6)
Cc: Metzler, Alan (b)(6) Gersten, David (b)(6)
Subject: RE: updated cve memo: need all redlines by tomorrow at noon so to get new version to COS by 5 pm on Friday, Tomorrow

+Gersten

(b)(6) apologies for delay. Attached are OCP edits.

Not sure how to capture this, but I think it is important for S1 to know the DHS CVE Director was unwilling to send/sign this memo in his name, which is why it is from his DCOS and not the Departments issue leader on the subject.

From: Barsa, John
Sent: Friday, March 3, 2017 11:44 AM
To: (b)(6) Selim, George (b)(6)
Gorka, Katie (b)(6)
Cc: Metzler, Alan (b)(6)
Subject: RE: updated cve memo: need all redlines by tomorrow at noon so to get new version to COS by 5 pm on Friday, Tomorrow

From:	Selim, George (b)(6)
To:	"Metzler, Alan (b)(6)
CC:	(b)(6) "Barsa, John (b)(6) (b)(6) "Gorka, Katie (b)(6) (b)(6) "Gersten, David (b)(6) (b)(6)
Subject:	CVE Grants Decision Memo
Date:	2017/02/07 20:18:57
Priority:	Normal
Type:	Note

Alan,

As requested, please find a decision memo attached for Secretary Kelly on the CVE Grant Program. This memo captures the views and recommendations by Transition Team members.

We did not run this through the Exec Sec process to get to you, but wanted to send to you directly per guidance from our discussion this afternoon. Happy to put this through the Exec Sec process first thing tomorrow if necessary.

Please let me know if you have any questions,

George

(b)(6)

Sender:	Selim, George (b)(6)
Recipient:	"Metzler, Alan (b)(6) (b)(6) "Barsa, John (b)(6) (b)(6) "Gorka, Katie (b)(6) (b)(6) "Gersten, David (b)(6) (b)(6)
Sent Date:	2017/02/07 20:18:55
Delivered Date:	2017/02/07 20:18:57

George

From: Barsa, John
Sent: Tuesday, January 24, 2017 3:34 PM
To: Selim, George (b)(6) Gersten, David (b)(6)
Cc: Wuco, Frank (b)(6) Gorka, Katie (b)(6)
Subject: contracting inquiry

George and David,

First off, thank you so much for all your efforts to date helping us understand the complex work you have been undertaking at the Office of Community Partnerships, not just with grants, but with all aspects of Countering Violent Extremism. We are extremely grateful and appreciative.

A few weeks ago I saw an article regarding DHS allegedly hiring an un-indicted co-conspirator in the Holy Land Foundation terror finance trial to work on CVE issues. See the article here: <http://www.investigativeproject.org/5729/ipt-exclusive-dhs-hires-cair-to-train-french#>

The article states that this group was working with the State Department and the DHS "Community Engagement Office". Are either of you familiar with this work? If this work did occur, was it with the Office of Community Partnerships or the DHS Office of Public Engagement?

Since we are trying to understand these complex issues better, can you let us know of any previously or currently contracted or granted dollars by OCP (or other DHS entities if known) to any of the un-indicted co-conspirators of the Holy Land Foundation Trial or any of the groups or individuals that were found in the Holy Land Foundation trial to be affiliated with the Muslim Brotherhood? (INSA, NAIT etc)

If you need the full list of the HLF trial un-indicted co-conspirators or groups found during the HLF trial to be affiliated with the Muslim Brotherhood, please let Katie or I know and we will gladly get you those lists.

Again, these are very complex issues. We appreciate your work to date.

Thanks in advance for all of your assistance.

Best regards,

John

Sender:	Selim, George (b)(6)
Recipient:	"Barsa, John (b)(6)
	Gersten, David (b)(6)

From: (b)(6)
Sent: Friday, March 03, 2017 2:47:57 PM
To: Barsa, John; Selim, George; Gorka, Katie; (b)(6)
Cc: Metzler, Alan; Gersten, David; (b)(6)
Subject: RE: updated cve memo: need all redlines by tomorrow at noon so to get new version to COS by 5 pm on Friday, Tomorrow

I do see the point so I've added the language – tweaked. Adding OGC as it is ready to be reviewed. I am sending this to ESEC in 30 mins. It will go out for formal clearance – you can give a thumbs up or down at that juncture as well.

Attached is the combined version.

(b)(6)

From: Barsa, John
Sent: Friday, March 3, 2017 2:44 PM
To: (b)(6) Selim, George (b)(6)
Gorka, Katie (b)(6)
Cc: Metzler, Alan (b)(6) Gersten, David (b)(6)
Subject: RE: updated cve memo: need all redlines by tomorrow at noon so to get new version to COS by 5 pm on Friday, Tomorrow

I'm not sure I see the purpose of this. Of course there are differences of opinion. That is why there are different options with different people making different recommendations.

What are you trying to communicate George that isn't already captured in the "pros and cons"?

John Barsa

DHS Transition Team

(b)(6)

From: (b)(6)
Sent: Friday, March 3, 2017 2:41 PM
To: Selim, George (b)(6) Barsa, John (b)(6)
Gorka, Katie (b)(6)
Cc: Metzler, Alan (b)(6); Gersten, David (b)(6)
Subject: RE: updated cve memo: need all redlines by tomorrow at noon so to get new version to COS by 5 pm on Friday, Tomorrow

George,

I'm not sure I understand what you are saying- what if it were tweaked to say –

(b)(5)

From: Barsa, John

Sent: Friday, March 3, 2017 11:44 AM

To: (b)(6) Selim, George (b)(6)

Gorka, Katie (b)(6)

Cc: Metzler, Alan (b)(6)

Subject: RE: updated cve memo: need all redlines by tomorrow at noon so to get new version to COS by 5 pm on Friday, Tomorrow

(b)(6)

Here are the edits from Katie and me.

John

John Barsa

DHS Transition Team

(b)(6)

From: (b)(6)

Sent: Thursday, March 2, 2017 8:34 PM

To: Selim, George (b)(6) Gorka, Katie (b)(6)

Barsa, John (b)(6)

Cc: Metzler, Alan (b)(6)

Subject: updated cve memo: need all redlines by tomorrow at noon so to get new version to COS by 5 pm on Friday, Tomorrow

Importance: High

George, Katie, and John,

I have updated, briefly, the memo per the discussion this afternoon. I need each of you to work out your edits and then to provide them to me. We need to get this done by COB Friday. **I need edits from you no later than noon on Friday, tomorrow.** I apologize for the haste.

Cc'ing Alan for confirmation or steer – my best understanding is that the memo is to be edited to reflect the conversation regarding the fifth option. We are not doing a complete rewrite of the memo.

Thanks very much and I look forward to your inputs.

(b)(6)

Got it. I'm not crazy about these options which is my principal objection, but I understand your reason in asking for them.

That said, I'll try to make the changes but I'd ask that the memo is from you and Katie to the Secretary, not me.

From: Barsa, John
Sent: Friday, February 17, 2017 10:03 PM
To: Selim, George (b)(6)
Cc: Gorka, Katie (b)(6)
Subject: RE: FLASH CLEARANCE - I WANT NUCLEAR OBJECTIONS ONLY

I do think a sentence or two reflecting the reality of the grant city developments is needed. I'm aware of the end result but don't understand the details enough to volunteer to take a stab at a draft. Can you?

Re the rest I think the options are as follows:

Let them all go
Hold all NGOs pending further review of CVE policy
Hold MPAC

And with each one pros and cons and just a paren with (OCP supports) or (Barsa / Gorka supports)

I think that is it and that each of those options has pros and cons that exist in other versions.

And of course we strike the portions discussing funds because that is OBE.

Thoughts?

From: Selim, George
Sent: Friday, February 17, 2017 9:56:24 PM
To: Barsa, John
Cc: Gorka, Katie; (b)(6)
Subject: RE: FLASH CLEARANCE - I WANT NUCLEAR OBJECTIONS ONLY

Copy, thanks John. Good to go on the body, fully agree, how do you propose we streamline the options?

From: Barsa, John
Sent: Friday, February 17, 2017 9:39 PM
To: Selim, George (b)(6)

(b)(5)

**Counselor
Office of the Secretary
Department of Homeland Security**

(b)(6)

Donald Trump's Speech, August 15, 2016. <http://www.politico.com/story/2016/08/donald-trump-terrorism-speech-227025>

Strategic Implementation Plan for Empowering Local Partners to prevent Violent Extremism in the United States, The White House, October 2016, p. 3.

US National Counterterrorism Center, *Counterterrorism Digest*, August 18-24, 2016, p. 3.

Before the recipients were communicated to Congress, the Appropriations Committees reaffirmed their support for CVE grant funding for \$10-50 million in the House and \$50 million in the Senate for FY17. In their appropriation bills the House provided \$50 million for two programs, the CVE program and one that deals with preparing first responder to respond to terrorist attacks. Their report language was unclear if the current division of \$10 million for CVE and \$40 million for the other program should stand, or if the funds would allow the Secretary discretion to divide as needed. The Senate provided \$50 for CVE grants alone. Currently DHS have no visibility into conference negotiations that would provide clarity on the discrepancy between House and Senate.

Homeland Security Act of 2002 Sec. 101(b)(1) and (2) P.L. 107-296

Sender:	Selim, George (b)(6) (b)(6)
Recipient:	"Barsa, John (b)(6) (b)(6) "Gorka, Katie (b)(6) (b)(6)
Sent Date:	2017/02/17 23:34:57
Delivered Date:	2017/02/17 23:34:58

From:	Selim, George (b)(6)
To:	"Gorka, Katie (b)(6) "Bansa, John (b)(6) "Gersten, David (b)(6) "Wuco, Frank (b)(6)
CC:	(b)(6)
Subject:	RE: contracting inquiry
Date:	2017/01/27 15:44:28
Priority:	Normal
Type:	Note

Hi All,

Thanks to Frank, John, and Katie for taking some time to talk this morning.

Just to recap what we discussed today, I was proposing we hold a series of deep-dive sessions next week to allow you to review every aspect of the grant program (proposed schedule below). If I understand correctly, Frank, John, and Katie do not want to proceed forward with this plan and need more time to review the initial batch of grant applications we provided earlier this week. Me and team will hit pause for now wait for further instructions on what, if any, of the grants programs briefings you would like.

In the meantime, I plan to continue to supply CVE grants related info via email. Two attachments: Frist (word doc) is a compilation of all the performance metrics from every intended awardee. We pulled these from each application and put them in one place for ease of reading. Second (in excel) please find attached the impact framework reflecting outputs and three levels of outcomes for the first three goals of the DHS CVE Strategy. Goal 4 of the strategy is essentially an intra-agency operating plan that is inherently included because the tasks are self-fulfilling (e.g. including performance metrics for all programming, or coordinating with the interagency).

The Excel Workbook attached has 4 sheets:

- • * Sheet 1: Goal 1 (Research)
- • * Sheet 2: Goal 2 (Awareness Raising)
- • * Sheet 3: Goal 3 (Grants Program PLUS other DHS programs)
- • * **Sheet 4: Goal 3 (Grants Program ONLY)**

Please let me know if you need anything further today or over the weekend.

Thanks,

George

From:	Selim, George (b)(6)
	(b)(6)
To:	"Taylor, Miles (b)(6)
	(b)(6)
	"Gorka, Katie (b)(6)
	(b)(6)
	"Barsa, John (b)(6)
	(b)(6)
	"Heighberger, Eric (b)(6)
	(b)(6)
	"Hoffman, Jonathan (b)(6)
	(b)(6)
	"Shah, Dimple (b)(6)
	(b)(6)
	(b)(6)
	(b)(6)
CC:	"Duke, Elaine (b)(6)
	(b)(6);
	"Gersten, David (b)(6)
	(b)(6)
	(b)(6)
Subject:	RE: S1 Memo: CVEGP Grant Decision (Pre-Decisional, Deliberative)
Date:	2017/03/29 15:05:46
Priority:	Normal
Type:	Note

Thanks Miles, please see a few edits from OCP attached. Overall this is was excellent, just a few small additions.

From: Taylor, Miles

Sent: Wednesday, March 29, 2017 1:03 PM

To: Selim, George (b)(6)

Gorka, Katie (b)(6) Barsa, John (b)(6) Heighberger, Eric

(b)(6) Hoffman, Jonathan (b)(6) Shah,

(b)(6)

(b)(6)

Cc: Duke, Elaine (b)(6)

Subject: S1 Memo: CVEGP Grant Decision (Pre-Decisional, Deliberative)

Importance: High

Hi all,

As requested by several, shrinking this to a smaller group. Attached (and pasted below) is the DRAFT memo for S1 regarding the consensus recommendation that we discussed at yesterday's CVEGP follow-on meeting.

Please send any additions/corrections/flags to me by 3:30pm if possible, as COS had asked for a draft in the FO today. Let me know if we are missing anyone essential, and feel free to include whoever you need on your end to get input.

Thank you for your help and sorry for the short turn.

Best, M

Miles Taylor
Office of the Secretary
U.S. Department of Homeland Security

(b)(6)

March XX, 2017

ACTION

MEMORANDUM FOR THE SECRETARY

THROUGH: Kirstjen Nielsen, Chief of Staff

FROM: Miles Taylor, Counselor

SUBJECT: **Countering Violent Extremism Grant Program**

(b)(5)



(b)(5)

From: Taylor, Miles

Sent: Tuesday, March 28, 2017 2:43 PM

To: (b)(6) Barsa, John (b)(6) Corbin,

Susan (b)(6)

(b)(6)

Gersten, David (b)(6)

Gorka, Katie (b)(6)

(b)(6) Heighberger, Eric (b)(6)

(b)(6) Hoffman, Jonathan (b)(6)

(b)(6)

(b)(6) Marcott, Stacy

(b)(6) Neumann,

Elizabeth (b)(6) Selim,

George (b)(6) Shah, Dimple (b)(6) (b)(6)

(b)(6) (b)(6)

(b)(6)

(b)(6)

(b)(6) Duke, Elaine

(b)(6) (b)(6)

(b)(6)

(b)(6)

Subject: Materials for 330pm CVEGP Staff Meeting (Pre-Decisional, Deliberative)

Hi all,

In advance of today's 330pm meeting, please see the attached as promised: (1) a document from OCP regarding "What Works" in CVE; and (2) a very skeletal options memo for S1 for us to debate and amend. Please also feel free to bring the prior memos and background materials on this issue.

Our goal is to put forward the most credible options to S1 this week, given his inputs so far.

M

Miles Taylor

Office of the Secretary

U.S. Department of Homeland Security

From:	(b)(6)
To:	"Barsa, John (b)(6) (b)(6)
Subject:	Canceled: *cancelled* CALL: CVE/Terror Prevention Plan
Date:	2017/06/28 19:14:38
Start Date:	2017/06/30 10:00:00
End Date:	2017/06/30 10:30:00
Importance:	High
Priority:	Urgent
Type:	Schedule Meeting.Canceled
Location:	(b)(6)
Attendees:	(b)(6) Gorka, Katie; Barsa, John; (b)(6)

Will circle back after more conversations. Thanks.

(b)(6)

Sender:	(b)(6)
Recipient:	"Gorka, Katie (b)(6) (b)(6)
Sent Date:	2017/06/28 19:14:37
Delivered Date:	2017/06/28 19:14:38

From:	(b)(6)
To:	Gorka, Katie (b)(6)
Subject:	CALL: CVE/Terror Prevention Plan
Date:	2017/06/28 12:26:19
Start Date:	2017/06/30 10:00:00
End Date:	2017/06/30 10:30:00
Priority:	Normal
Type:	Schedule.Meeting.Request
Location:	(b)(6)
Attendees:	(b)(6) Gorka, Katie; Barsa, John (b)(6)

Sender:	(b)(6)
Recipient:	Gorka, Katie (b)(6)
Sent Date:	2017/06/28 12:26:19

From:	Barsa, John (b)(6)
SentVia:	Gorka, Katie (b)(6)
To:	(b)(6)
Subject:	FW: CVE and OPE Relationship w/ PLCY
Date:	2017/05/31 10:00:37
Start Date:	2017/05/31 12:00:00
End Date:	2017/05/31 13:00:00
Priority:	Normal
Type:	Schedule.Meeting.Request
Location:	NAC18, 2-223A (Small Conference Room)

-----Original Appointment-----

From: Barsa, John

Sent: Friday, May 26, 2017 10:52 AM

To: Barsa, John; Gorka, Katie; (b)(6)

Subject: CVE and OPE Relationship w/ PLCY

When: Wednesday, May 31, 2017 12:00 PM-1:00 PM (UTC-05:00) Eastern Time (US &Canada).

Where: NAC18, 2-223A (Small Conference Room)

From:	Gorka, Katie (b)(6)
To:	"Barsa, John (b)(6)"
Subject:	(b)(6)
Date:	2017/07/24 11:06:25
Start Date:	2017/07/26 09:30:00
End Date:	2017/07/26 10:00:00
Priority:	Normal
Type:	Schedule.Meeting.Resp.Neg
Location:	OPE small conference room, building 18

Sender:	Gorka, Katie (b)(6)
Recipient:	"Barsa, John (b)(6)"
Sent Date:	2017/07/24 11:06:25

EXHIBIT 1 PART D

From:	Gorka, Katie (b)(6)
To:	"Barsa, John (b)(6)
Subject:	Accepted: CVE & FBO
Date:	2017/05/15 09:14:10
Start Date:	2017/05/15 14:00:00
End Date:	2017/05/15 15:00:00
Priority:	Normal
Type:	Schedule.Meeting.Resp.Pos
Location:	(b)(6)

(b)(6)

I will probably arrive just a little late since I am coming from another meeting.

(b)(6)

Sender:	Gorka, Katie (b)(6)
Recipient:	"Barsa, John (b)(6)
Sent Date:	2017/05/15 09:14:09
Delivered Date:	2017/05/15 09:14:10

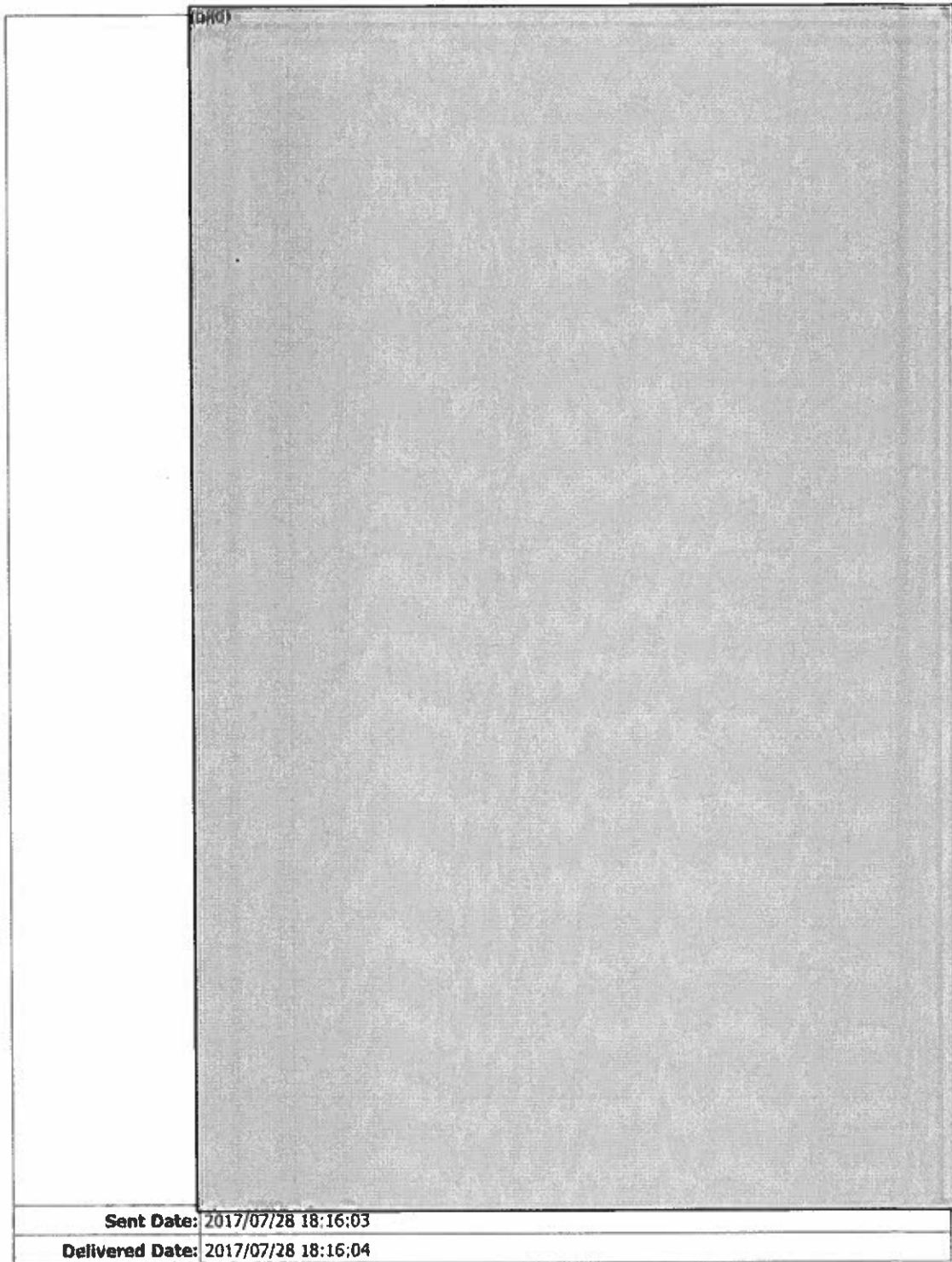
From:	Gorka, Katie (b)(6)
To:	"Barsa, John (b)(6) (b)(6)
Subject:	Accepted: SOCOM SCA perspective on CVE briefing
Date:	2017/03/28 10:52:05
Start Date:	2017/03/28 11:00:00
End Date:	2017/03/28 12:00:00
Type:	Schedule.Meeting.Resp.Pos
Location:	(b)(6)

Sender:	Gorka, Katie (b)(6) (b)(6)
Recipient:	"Barsa, John (b)(6) (b)(6)
Sent Date:	2017/03/28 10:52:04
Delivered Date:	2017/03/28 10:52:05

From:	(b)(6)
To:	"Barsa, John (b)(6) (b)(6) Gorka, Katie (b)(6) (b)(6)
Subject:	Briefing from Washington Institute on CVE report
Date:	2017/03/17 15:04:26
Start Date:	2017/03/22 15:00:00
End Date:	2017/03/22 16:30:00
Priority:	Normal
Type:	Schedule.Meeting.Request
Location:	OCP Primary Conf Room
Attendees:	Barsa, John; Gorka, Katie

(b)(6) please feel free to join us in the afternoon as we will host (b)(6) for a briefing on their recent CVE report. You'll see an email from me earlier this week which forwards the report.

Reference: http://info.washingtoninstitute.org/acton/rif/19961/s-026e-1703/-/l-0097:147/l-0097/showPreparedMessage?utm_term=CLICK%20TO%20VIEW%20IN%20BROWSER&utm_campaign=A%20Comprehensive%20Policy%20to%20Prevent%20and%20Counter%20U.S.%20Violent%20Extremism&utm_content=email&utm_source=Act-On+Software&utm_medium=email&cm_mmc=Act-On%20Software_-email_-A%20Comprehensive%20Policy%20to%20Prevent%20and%20Counter%20U.S.%20Violent%20Extremism_-CLICK%20TO%20VIEW%20IN%20BROWSER&sid=TV2:DALOipAEb



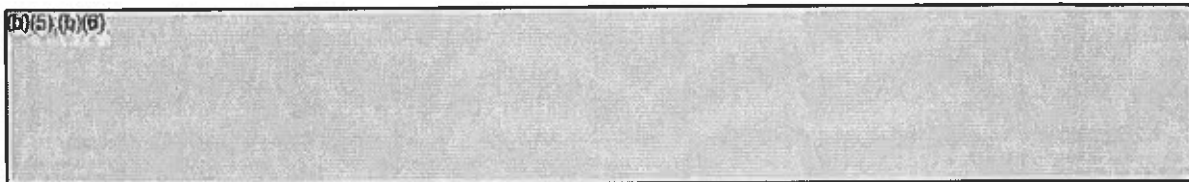
From:	(b)(6)
Sent Via:	
To:	"Gorka, Katie" (b)(6) (b)(6) "Barsa, John" (b)(6) (b)(6)
Subject:	Update
Date:	2017/02/28 08:06:30
Start Date:	2017/02/28 16:15:00
End Date:	2017/02/28 16:45:00
Priority:	Normal
Type:	Schedule Meeting Request
Location:	OLA A/S Office Table
Attendees:	Gorka, Katie; Barsa, John; (b)(6)

Sender:	(b)(6)
Recipient:	"Gorka, Katie" (b)(6) (b)(6) "Barsa, John" (b)(6) (b)(6)
Sent Date:	2017/02/28 08:06:30

Date:	2017/03/23 19:53:38		
Start Date:	2017/03/24 15:30:00		
End Date:	2017/03/24 16:00:00		
Type:	Appointment		
Location:	NAC	(b)(7)	
Attendees:	(b)(6)		
	(b)(6)	Gorka, Katie;	
	(b)(6)		

Hi all,

(b)(5), (b)(6)



Best,

(b)(6)



Office of the Secretary

Subject:	Follow-On Meeting: CVEGP
Date:	2017/03/27 07:13:57
Start Date:	2017/03/28 15:30:00
End Date:	2017/03/28 16:15:00
Type:	Schedule.Meeting.Request
Location:	(b)(6)

When: Tuesday, March 28, 2017 3:30 PM-4:15 PM. (UTC-05:00) Eastern Time (US & Canada)

Where:

* * * * *

(b)(5)

(b)(5)

(b)(6)

Office of the Secretary

Office of the Secretary

U.S. Department of Homeland Security

(b)(6)

Sender:	(b)(6)
Recipient:	(b)(6)
	Gorka, Katie (b)(6)
	(b)(6)

February 6, 2017
Monday

10:30 AM - 11:30 AM

limited term SES appointment -- NAC (b)(6) (Neal's office)

11:30 AM - 12:30 PM

Mutual Updates -- Tom's Ofc (b)(6)

4:00 PM - 4:45 PM

Meet w/John Barsa/Katie Gorka (DHS Transition Team) -- NAC: BLDG (b)(6)
NEW DATE/time: 4pm - 4:45pm //tcb

=====

SUBJECT: Security docs for intended CVE grant awardees

=====

POC

John Barsa

DHS Transition Team

(b)(6) (cell)
(b)(6) (office)

From: Grannis, David

Sent: Wednesday, February 01, 2017 5:56:13 PM

To: Barsa, John

Cc: Gorka, Katie; Dunlap, James; (b)(6)

Subject: RE: Security docs for intended CVE grant awardees

This can definitely be done at the TS level or below.

My week is somewhat overtaken by foreign fighter/vetting executive order implementation, but I've cc'd by EA to work on finding a time that will work as soon as can be arranged.

David

From: Barsa, John

Sent: Wednesday, February 1, 2017 5:49 PM

To: Grannis, David (b)(6)

Cc: Gorka, Katie (b)(6); Dunlap, James (b)(6)

Subject: RE: Security docs for intended CVE grant awardees

David,

That would be great. Caveat - OPM is dragging their feet on upgrading my TS. Can this be done at TS or below?

Katie left for the day and I don't know her availability. I'm fairly flexible. What are some good windows on your end? Let us know and we will work around your availability.

John

John Barsa

DHS Transition Team

(b)(6) (cell)
(b)(6) (office)

DHS-001-3544-000006

February 6, 2017 Continued

Monday

From: Grannis, David

Sent: Wednesday, February 1, 2017 5:34 PM

To: Barsa, John (b)(6); Selim, George (b)(6)

Cc: Gorka, Katie (b)(6); Dunlap, James (b)(6)

Subject: RE: Security docs for intended CVE grant awardees

Hi John – hope all's well.

Happy to provide that information. What I'd suggest is a short meeting for us to describe the process we followed and the results. I suggest this rather than dumping reports on you is because we generated a bunch of reports, (b)(5)

(b)(5)

think an hour would be sufficient to cover it. Adding Jim Dunlap from I&A Homeland Threats Division who did most of the work on this.

David

David Grannis
Principal Deputy Under Secretary
Office of Intelligence and Analysis
Department of Homeland Security

(b)(6)

From: Barsa, John

Sent: Wednesday, February 1, 2017 5:17 PM

To: Selim, George (b)(6); Grannis, David

(b)(6)

Cc: Gorka, Katie (b)(6)

Subject: Security docs for intended CVE grant awardees

George and/or David,

(b)(5)

Thanks in advance for any and all assistance.

Best regards,

John

John Barsa
DHS Transition Team

DHS-001-3544-000007

February 8, 2017

Wednesday

1:00 PM - 2:00 PM

CVE -- NAC (b)(6) Conference Room

DO NOT FORWARD OR COPY THIS INVITATION

If there are any questions, please contact me at (b)(6)

Attendees

Alan Metzler

George Selim

David Gersten

Frank Wuco

Katie Gorka

John Barsa

Sarah Kendall

February 13, 2017

Monday

2:30 PM - 3:00 PM

CVE Grants and Sanctuary Cities Discussion -- NAC (b)(6) Dial In (b)(6)

DO NOT FORWARD OR COPY THIS INVITATION

If there are any questions, please contact me at (b)(6)

Attendees

Alan Metzler

George Selim

David Gersten

Allen Blume

Neal Swartz

Mark Silveira

Bridget Bean

Sarah Kendall

John Barsa

Katie Gorka

February 21, 2017

Tuesday

2:00 PM - 2:30 PM

CVE Memo Discussion -- NAC 5, Conference Room (b)(6)

Participants:

Alan Metzler

George Selim

David Gersten

John Barsa

Sarah Kendall

Katie Gorka

March 8, 2017

Wednesday

3:30 PM - 4:15 PM

CVE Grants Meeting -- NAC, (b)(6) Conference Room

DO NOT FORWARD OR COPY THIS INVITATION

If there are any questions, please contact me at (b)(6)

Attendees

Secretary

Acting Deputy Secretary

Kirstjen Nielsen

Alan Metzler

Jennifer Higgins

Gene Hamilton

Sarah Kendall

Joe Maher, OGC

Dimple Shah, Policy

George Selim, OCP

Neal Swartz, OGC

Dave Grant, FEMA

Katie Gorka

John Barsa

March 23, 2017

Thursday

3:45 PM - 4:30 PM

***new date & time* Follow-Up: CVE Grants Meeting -- NAC, (b)(6) Conference Room**

DO NOT FORWARD OR COPY THIS INVITATION

If there are any questions, please contact me at (b)(6)

This is a follow-up to the March 8th meeting.

Attendees

Secretary

Acting Deputy Secretary

Kirstjen Nielsen

Jennifer Higgins

Gene Hamilton

Sarah Kendall

Joe Maher, OGC

Dimple Shah, Policy

George Selim, OCP

Neal Swartz, OGC

Robert Fenton +1 (Myung Kim), FEMA

Katie Gorka

John Barsa

Jonathan Hoffman, OPA

Susan Corbin, OLA

Stacy Marcott, OCFO

Elizabeth Neumann

David Glawe, I&A

David Gersten, OCP

John Picarelli, OCP

March 24, 2017

Friday

3:30 PM - 4:00 PM

CVEGP Follow-On Staff Discussion -- NAC (b)(6) Conference Room (dial-in: (b)(6))

Hi all,

Kirstjen asked that we keep moving on this tomorrow. Can those of you who are available please join for an informal discussion re. CVEGP next steps tomorrow at 3:30pm in NAC (b)(6) Conference Room (dial in TBD)? We will start comparing notes on options, given S1's input today. Please feel free to add anyone I missed. I will endeavor to send around a dial-in tomorrow. If you can't make it, we will work to schedule a follow-on early next week.

Best,

Miles

Miles Taylor
Office of the Secretary
U.S. Department of Homeland Security
M: (b)(6)

March 28, 2017

Tuesday

11:00 AM - 12:00 PM

SOCOM SCA perspective on CVE briefing -- Room (b)(6)
Place holder for your calendars until final logistics have been worked out.

3:30 PM - 4:15 PM

Follow-On Meeting: CVEGP -- NAC (b)(6) Conference Room (Dia (b)(6))
(b)(6)

Hi all, we will meet again next week to try to get toward final recommendations for another option memo to S1. OCP will provide a roughly 2-page "what works" document; Miles will circulate a very drafty S1 memo; and we will take stock of where we are at for rec's.

Can we make sure we have representation from at least OCP, FEMA, OGC, OPA, and relevant FO folks? Thanks.

Miles

Miles Taylor
Office of the Secretary
U.S. Department of Homeland Security
M: (b)(6)

May 19, 2017

Friday

3:30 PM - 3:45 PM

***new time* CVE Grants -- NAC (b)(6) Conference Room**

DO NOT FORWARD OR COPY THIS INVITATION

If there are any questions, please contact me at (b)(6)

Lead Counselor: Miles Taylor

Lead Office: OCP

Attendees

Secretary

Deputy Secretary

Kirstjen Nielsen

Elizabeth Neumann

(b)(6)

Miles Taylor

Sarah Kendall (if available)

Chip Fulghum, MGMT

Joe Maher, OGC

John Barsa, OPE

George Selim, OCP

Jonathan Hoffman, OPA

Katie Gorka (attending) for Michael Dougherty, Policy (not available)

Eric Heighberger, FEMA

May 23, 2017

Tuesday

3:15 PM - 4:00 PM

Follow-Up: CVE Grants Meeting -- NAC (b)(6) Conference Room

DO NOT FORWARD OR COPY THIS INVITATION

If there are any questions, please contact me at (b)(6)

Lead Counselor: Miles Taylor

Lead Office: OCP

Attendees

Secretary

Deputy Secretary (not available)

Kirstjen Nielsen

Elizabeth Neumann

(b)(6)

Miles Taylor

Sarah Kendall

Chip Fulghum, MGMT

Joe Maher, OGC

John Barsa, OPE

George Selim, OCP

Jonathan Hoffman, OPA

Katie Gorka (attending) for Michael Dougherty, Policy (not available)

Eric Heighberger, FEMA

Ben Cassidy, OLA

From: Taylor, Miles

Sent: Monday, May 22, 2017 5:24 PM

To: Brodsky, Marcy (b)(6)

Cc: Nielsen, Kirstjen (b)(6)

Neumann, Elizabeth

(b)(6)

Subject: Scheduling CVE Grant Program Follow-On Meeting

Marcy,

This morning S1 requested that a follow-on discussion on the CVE grants be scheduled soon so that he can ask questions in order to reach a final decision. Below are the suggested attendees. Our hope is that we can do this before he testifies late Wednesday in front of the House Appropriations Committee (b)(5)

(b)(5)

But if that's not possible, I defer to you/COS/DCOS where we can put this. ~30 min.

M

Miles Taylor

Counselor to the Secretary

U.S. Department of Homeland Security

M: (b)(6)

DHS-001-3544-000048

June 6, 2017

Tuesday

12:40 PM - 1:10 PM

Canceled: Meeting re. CVE Grants Rollout -- NAC (b)(6)

From: Taylor, Miles

Sent: Monday, June 5, 2017 11:27 AM

To: Selim, George (b)(6)

Cassidy, Ben

(b)(6)

Corbin, Susan (b)(6)

Hoffman, Jonathan (b)(6)

Maher, Joseph

(b)(6)

; Swartz, Neal (b)(6)

Cc: Neumann, Elizabeth (b)(6)

Subject: RE: CVEGP Update

Correction: 1230* tomorrow.

M

From: Taylor, Miles

Sent: Monday, June 5, 2017 11:25 AM

To: Selim, George (b)(6)

Cassidy, Ben

(b)(6)

Corbin, Susan (b)(6)

Hoffman, Jonathan (b)(6)

Maher, Joseph

(b)(6)

Swartz, Neal (b)(6)

Cc: Neumann, Elizabeth (b)(6)

Subject: CVEGP Update

All,

We need to huddle tomorrow to finalize the CVE Grants rollout. I believe we have S1 guidance on a decision, but we'll need to get him a final slate before moving forward. I am going to send out an invite for tomorrow at 11am. Would like to make sure we have rep's from OCP, OLA, OGC, and OPA all huddle on this. If the time is a show-stopper, let me know.

M

Miles Taylor

Counselor to the Secretary

U.S. Department of Homeland Security

M: (b)(6)

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

CITIZENS FOR RESPONSIBILITY AND
ETHICS IN WASHINGTON,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF
HOMELAND SECURITY,

Defendant.

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Case No. 1:19-cv-3544 (APM)

**[PROPOSED] ORDER DENYING DEFENDANT’S MOTION
FOR SUMMARY JUDGMENT**

Upon consideration of Defendant’s Motion for Summary Judgment, the memorandum of points and authorities in support thereof, the opposition thereto, any reply, and the entire record herein, it is on this ____ day of _____, 2020,

ORDERED that Defendant’s Motion for Summary Judgment be, and hereby is,
DENIED.

Hon. Amit P. Mehta
UNITED STATES DISTRICT JUDGE

Copies to:
Counsel of Record via ECF

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing Opposition to Defendant's Motion for Summary Judgment, Response to Defendant's Statement of Material Facts Not in Dispute, Declaration of Jeffrey S. Gutman and accompanying Exhibits to all counsel of record via the ECF filing system on this, the 28th day of August, 2020.

/s/ Jeffrey S. Gutman
Jeffrey S. Gutman