

Federal Bureau of Investigation

Washington, D.C. 20535

March 17, 2023

MR. NIKHEL S. SUS CITIZENS FOR RESPONSIBILITY AND ETHICS IN WASHINGTON SUITE 900 1331 F STREET NORTHWEST WASHINGTON, DC 20004

> Civil Action No.: 22-cv-00149 FOIPA Request No.: 1505050-000 Subject: Body-Worn Camera Policy

(Implementation, Communications, Assessments)

Dear Mr. Sus:

The enclosed documents were reviewed under the FOIPA, Title 5, United States Code, Section 552/552a. Below you will find checked boxes under applicable statutes for the exemptions asserted to protect information exempt from disclosure. The appropriate exemptions are noted on the processed pages next to redacted information. In addition, a deleted page information sheet was inserted to indicate where pages were withheld entirely pursuant to applicable exemptions. An Explanation of Exemptions is enclosed to further explain justification for withheld information.

You were previously advised we were consulting with another agency concerning information related to your Freedom of Information/Privacy Acts (FOIPA) request. Information has been returned to the FBI and is enclosed in addition to the current interim release.

Se	ection 552	Section 552a
(b)(1)	(b)(7)(A)	(d)(5)
(b)(2)	(b)(7)(B)	(j)(2)
(b)(3)	▽ (b)(7)(C)	(k)(1)
	☐ (b)(7)(D)	(k)(2)
	▽ (b)(7)(E)	(k)(3)
	(b)(7)(F)	(k)(4)
(b)(4)	(b)(8)	(k)(5)
☑ (b)(5)	(b)(9)	(k)(6)
☑ (b)(6)		(k)(7)

500 pages were reviewed and 8 pages are being released in addition to the documents returned to the FBI from another government agency.

The appropriate redactions were made by the United States Department of Justice (DOJ).

Please see the paragraphs below for relevant information specific to your request and the enclosed FBI FOIPA Addendum for standard responses applicable to all requests.

In response to your FOIPA request and subsequent civil action case pending in the United States District Court for the District of Columbia, the enclosed documents represent our third interim release of documents consisting of bates stamps FBI (22-cv-00149)-108 through FBI (22-cv-00149)110 and FBI (22-cv-00149)-1039 through FBI (22-cv-00149)-1538.

Please note that the FBI is making the March release early, but will resume making end of the month releases in April and thereafter.

This material is being provided to you at no charge.

Duplicate copies of the same document were not processed.

Please refer to the enclosed FBI FOIPA Addendum for additional standard responses applicable to your request. "Part 1" of the Addendum includes standard responses that apply to all requests. "Part 2" includes additional standard responses that apply to all requests for records about yourself or any third party individuals. "Part 3" includes general information about FBI records that you may find useful. Also enclosed is our Explanation of Exemptions.

Although your request is in litigation, we are required by law to provide you the following information:

If you are not satisfied with the Federal Bureau of Investigation's determination in response to this request, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, 441 G Street, NW, 6th Floor, Washington, D.C. 20530, or you may submit an appeal through OIP's FOIA STAR portal by creating an account following the instructions on OIP's website: https://www.justice.gov/oip/submit-and-track-request-or-appeal. Your appeal must be postmarked or electronically transmitted within ninety (90) days of the date of my response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal." Please cite the FOIPA Request Number assigned to your request so it may be easily identified.

You may seek dispute resolution services by emailing the FBI's FOIA Public Liaison at foipaquestions@fbi.gov. The subject heading should clearly state "Dispute Resolution Services." Please also cite the FOIPA Request Number assigned to your request so it may be easily identified. You may also contact the Office of Government Information Services (OGIS). The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Please direct any further inquiries about this case to attorney representing the Government in this matter. Please use the FOIPA Request Number and/or Civil Action Number in all correspondence or inquiries concerning your request.

Sincerely,

Michael G. Seidel Section Chief Record/Information Dissemination Section

Information Management Division

Enclosure(s)

FBI FOIPA Addendum

As referenced in our letter responding to your Freedom of Information/Privacy Acts (FOIPA) request, the FBI FOIPA Addendum provides information applicable to your request. Part 1 of the Addendum includes standard responses that apply to all requests. Part 2 includes standard responses that apply to requests for records about individuals to the extent your request seeks the listed information. Part 3 includes general information about FBI records, searches, and programs.

Part 1: The standard responses below apply to all requests:

- (i) **5 U.S.C. § 552(c).** Congress excluded three categories of law enforcement and national security records from the requirements of the FOIPA [5 U.S.C. § 552(c)]. FBI responses are limited to those records subject to the requirements of the FOIPA. Additional information about the FBI and the FOIPA can be found on the www.fbi.gov/foia website.
- (ii) Intelligence Records. To the extent your request seeks records of intelligence sources, methods, or activities, the FBI can neither confirm nor deny the existence of records pursuant to FOIA exemptions (b)(1), (b)(3), and as applicable to requests for records about individuals, PA exemption (j)(2) [5 U.S.C. §§ 552/552a (b)(1), (b)(3), and (j)(2)]. The mere acknowledgment of the existence or nonexistence of such records is itself a classified fact protected by FOIA exemption (b)(1) and/or would reveal intelligence sources, methods, or activities protected by exemption (b)(3) [50 USC § 3024(i)(1)]. This is a standard response and should not be read to indicate that any such records do or do not exist.

Part 2: The standard responses below apply to all requests for records on individuals:

- (i) **Requests for Records about any Individual—Watch Lists.** The FBI can neither confirm nor deny the existence of any individual's name on a watch list pursuant to FOIA exemption (b)(7)(E) and PA exemption (j)(2) [5 U.S.C. §§ 552/552a (b)(7)(E), (j)(2)]. This is a standard response and should not be read to indicate that watch list records do or do not exist.
- (ii) Requests for Records about any Individual—Witness Security Program Records. The FBI can neither confirm nor deny the existence of records which could identify any participant in the Witness Security Program pursuant to FOIA exemption (b)(3) and PA exemption (j)(2) [5 U.S.C. §§ 552/552a (b)(3), 18 U.S.C. 3521, and (j)(2)]. This is a standard response and should not be read to indicate that such records do or do not exist.
- (iii) Requests for Confidential Informant Records. The FBI can neither confirm nor deny the existence of confidential informant records pursuant to FOIA exemptions (b)(7)(D), (b)(7)(E), and (b)(7)(F) [5 U.S.C.§ \$552 (b)(7)(D), (b)(7)(E), and (b)(7)(F)] and Privacy Act exemption (j)(2) [5 U.S.C.§ 552a (j)(2)]. The mere acknowledgment of the existence or nonexistence of such records would reveal confidential informant identities and information, expose law enforcement techniques, and endanger the life or physical safety of individuals. This is a standard response and should not be read to indicate that such records do or do not exist.

Part 3: General Information:

- (i) Record Searches and Standard Search Policy. The Record/Information Dissemination Section (RIDS) searches for reasonably described records by searching systems, such as the Central Records System (CRS), or locations where responsive records would reasonably be found. The CRS is an extensive system of records consisting of applicant, investigative, intelligence, personnel, administrative, and general files compiled by the FBI per its law enforcement, intelligence, and administrative functions. The CRS spans the entire FBI organization, comprising records of FBI Headquarters, FBI Field Offices, and FBI Legal Attaché Offices (Legats) worldwide; Electronic Surveillance (ELSUR) records are included in the CRS. The standard search policy is a search for main entity records in the CRS. Unless specifically requested, a standard search does not include a search for reference entity records, administrative records of previous FOIPA requests, or civil litigation files.
 - a. Main Entity Records created for individuals or non-individuals who are the subjects or the focus of an investigation
 - b. Reference Entity Records- created for individuals or non-individuals who are associated with a case but are not known subjects or the focus of an investigation
- (ii) **FBI Records.** Founded in 1908, the FBI carries out a dual law enforcement and national security mission. As part of this dual mission, the FBI creates and maintains records on various subjects; however, the FBI does not maintain records on every person, subject, or entity.
- (iii) Foreseeable Harm Standard. As amended in 2016, the Freedom of Information Act provides that a federal agency may withhold responsive records only if: (1) the agency reasonably foresees that disclosure would harm an interest protected by one of the nine exemptions that FOIA enumerates, or (2) disclosure is prohibited by law (5 United States Code, Section 552(a)(8)(A)(i)). The FBI considers this foreseeable harm standard in the processing of its requests.
- (iv) Requests for Criminal History Records or Rap Sheets. The Criminal Justice Information Services (CJIS) Division provides Identity History Summary Checks often referred to as a criminal history record or rap sheet. These criminal history records are not the same as material in an investigative "FBI file." An Identity History Summary Check is a listing of information taken from fingerprint cards and documents submitted to the FBI in connection with arrests, federal employment, naturalization, or military service. For a fee, individuals can request a copy of their Identity History Summary Check. Forms and directions can be accessed at www.ebo.cjis.gov/about-us/cjis/identity-history-summary-checks. Additionally, requests can be submitted electronically at www.edo.cjis.gov. For additional information, please contact CJIS directly at (304) 625-5590.

EXPLANATION OF EXEMPTIONS

SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552

- (b)(1) (A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified to such Executive order;
- (b)(2) related solely to the internal personnel rules and practices of an agency;
- (b)(3) specifically exempted from disclosure by statute (other than section 552b of this title), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;
- (b)(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;
- (b)(5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;
- (b)(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;
- (b)(7) records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or (F) could reasonably be expected to endanger the life or physical safety of any individual;
- (b)(8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or
- (b)(9) geological and geophysical information and data, including maps, concerning wells.

SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552a

- (d)(5) information compiled in reasonable anticipation of a civil action proceeding;
- (j)(2) material reporting investigative efforts pertaining to the enforcement of criminal law including efforts to prevent, control, or reduce crime or apprehend criminals;
- (k)(1) information which is currently and properly classified pursuant to an Executive order in the interest of the national defense or foreign policy, for example, information involving intelligence sources or methods;
- (k)(2) investigatory material compiled for law enforcement purposes, other than criminal, which did not result in loss of a right, benefit or privilege under Federal programs, or which would identify a source who furnished information pursuant to a promise that his/her identity would be held in confidence;
- (k)(3) material maintained in connection with providing protective services to the President of the United States or any other individual pursuant to the authority of Title 18, United States Code, Section 3056;
- (k)(4) required by statute to be maintained and used solely as statistical records;
- (k)(5) investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment or for access to classified information, the disclosure of which would reveal the identity of the person who furnished information pursuant to a promise that his/her identity would be held in confidence;
- (k)(6) testing or examination material used to determine individual qualifications for appointment or promotion in Federal Government service the release of which would compromise the testing or examination process;
- (k)(7) material used to determine potential for promotion in the armed services, the disclosure of which would reveal the identity of the person who furnished the material pursuant to a promise that his/her identity would be held in confidence.

FEDERAL BUREAU OF INVESTIGATION DELETED PAGE INFORMATION SHEET FOI/PA# 22-cv-149

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From: Subject: To: Sent: Attached:	FW: FOIPA# 1505050-000 / Body-Worn Camera Policy Request UNCLASSIFIED//F940 Stephen Kelly; September 17, 2021 9:58 AM (UTC-04:00) 1505050 BWC Policy Request.pdf	b6 - b7C
Classifica	tion: UNCLASSIFIED//F000	
FYSA, we have	now received the CREW request. It's pretty extensive.	
part of the requ that I have ema least one other	espond to RIDS that your section has the lead on this but also PCLU would be responsible for the PIA nest and FCLU may be involved due to the resources part of the request. (I will also let them know ils that are possibly responsive.) I will loop in so he is aware and I will reiterate that at LE component of DOJ has received this request so that they should reach out to their counterparts and DEA to coordinate on this.	b6 - b7С
•	sary to have a discussion with RIDS about how to approach this, since I imagine it could involve a at amount of information.	
this message to	IDS to identify the search cut-off date for this request. (It will be no later than today, since they sent me today but it may be earlier. This is important because we will not have to include any records se search cut-off date.)	
	7	b6 - b7C b7E
Acting Section (Unit Chief (she/her/hers)	Chief Strategic and Sensitive Information Litigation Section	
Office of the Ge	neral Counsel JEH Room	
attachments, may b	TEMENT: Is a smitted to you by the Office of the General Counsel of the Federal Bureau of Investigation. The message, along with any The confidential and legally privileged. If you are not the intended recipient of this message, please destroy it promptly without The dissemination (unless otherwise required by law). Please notify the sender of the error by a separate e-mail or by calling]
From Sent: Friday, Se	ptember 17, 2021 9:27 AM b7	5 -1, 7C -1 7E -3
Cc: (FBI) Subject: FOIPA	(OGC) (FBI) (IMD) (FBI) (IMD) (FBI) (IMD) (FBI) (IMD) (FBI) (IMD) (FBI) (IMD) (FBI)	
Classifica	tion: UNCLASSIFIED//FOGO	
TRANSITORY	RECORD	
Good morning l	uc	
new Body-Worr	that is seeking records regarding a Camera (BWC) policy. The request is specifically seeking implementation plans and communications ew policy that the request states is required by a June 7, 2021 memorandum issued by Deputy Attorney	

General Lisa Monaco.

Would OGC possibly have any responsive records regarding this subject? If this request should be forwarded to another unit or individual, please refer me and I will contact them separately. Thank you for your assistance with this request.

Contractor - PAE IMD/RIDS ROC.		
Classification:	UNCLASSIFIED//POKO	
Classification:	 UNCLASSIFIED//FOUC	

b6 -1 b7C -1 b7E -3

From: Subject: RE: MOU Question UNCLASSIFIED To: South	b6 b70
Sent: June 10, 2021 1:23 PM (UTC-04:00) Classification: UNCLASSIFIED	
TRANSITORY RECORD	
Thanks, Thanks	
From: OGC) (FBI) Sent: Wednesday, June 9, 2021 10:49 AM To OGC) (FBI) Subject: RE: MOU Question UNCLASSIFIED	b6 b70 b71
Classification: UNCLASSIFIED	
This will confirm that the BWC MOU addendum does not need to go through full OGC review. My understanding is that the most recent copy of the BWC addendum is on the Violent Crime Section's Sharepoint site. CID is the lead on the pending BWC policy for Agents, which will be separate from the TFO policy/addendum.	
Thx and let me know if more is needed. Take care.	
From: (OGC) (FBI) Sent: Tuesday, June 08, 2021 2:40 PM To: (OGC) (FBI) Subject: FW: MOU Question UNCLASSIFIED	b6 b70 b71
Classification: UNCLASSIFIED	
н	
Hope you are doing wellfrom Newark asked about the body worn camera MOU addendum he found on the intranet. I think it was also sent out to all ASACs back in 2020 along with the 2020 DOJ policy on body worn cameras. I didn't see record of it in the MOU sharepoint site and wanted check whether CID had worked with you on this addendum, and if so, whether you andhad any conversation about whether this should go through a full OGC review?	
Additionally, does the new DOJ policy announced yesterday re federal agents wearing body cameras come into play re this addendum?	
Thank you in advance!	
Best regards,	
Assistant General Counsel	ь6 ь70

Privacy and Civil Liberties Unit JEH 7350	
Federal Bureau of Investigation Desk: Mobile:	b6 -1 b7C -1 b7E -3
Confidentiality Statement: This message is transmitted to you by the Office of the General Counsel of the Federal Bureau of Investigation. The message, along with any attachments, may be confidential and legally privileged. If you are not the intended recipient of this message, please destroy it promptly without further retention or dissemination (unless otherwise required by law). Please notify the sender of the error by a separate e-mail or by calling	
From: (NK) (FBI) Sent: Sunday, June 6, 2021 3:41 PM To: (OGC) (FBI) Subject: MOU Question UNCLASSIFIED	b6 -1 b7C -1 b7E -3
Classification: UNCLASSIFIED	
HiNewark's CDC. Hope all is well.	
I was on your Website and it identifies you as New Jersey's Attorney General just issued a directive mandating increased use of body worn cameras for NJ State and local law enforcement. I found the attached MOU Addendum for FBI TFOs in the Intranet but did not see it in the Model MOU Library. Can you confirm this is the correct Addendum we should be using for TFOs and Body Worn Cameras? Thanks.	
Chief Division Counsel FBI-Newark	
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Classification: UNCLASSIFIED

From: Subject:	Joint Task Force Policy Guide Update UNCLASSIFIED/LEGG		
То:	Steven Kelly;	」 b7E - 7	
Cc:		J	
Sent: Attached:	July 20, 2021 1:57 PM (UTC-04:00) Joint Task Force PG (7-20-2021).docx	b5 -	
Classific	cation: UNCLASSIFIED//F040		
For your refe	e for the last minute rescheduling. We are awaiting further review of this language by CTD management. rence, the attached Word document includes some additional updates in subsections Please let me know if you have any questions.	b5 -1 b6 -1 b7C -	
Thank you,			
Good afterno	on,		
The purpose any additiona	meeting in May, CD received an update that EAD Sanborn is supportive of ne Joint Task Force Policy Guide. of this meeting is to address collaboration comments received and make all edits as needed. For your reference, the comments and language are in the below attachments. In will discuss next steps to move this policy to executive approval and publication.	b5 -	
	g date/time does not work for you and you must be present, please let me know.		
Policy Team S Internal Polic Desk: Mobile:	Supervisor	b6 -1 b7C - b7E -	
Join Skyp	e Meeting ning? Try Skype Web App		
Join by pho		, =-	
for it	vnc VTC and Secure Phone Bridge (WashDC) English (United States) mber	b7E -	
Conference ID:		b7E -	

Important: Traditional	_phones or cell pho	nes cannot be used for secure calling.		D/E -3
Skype users on	click "Join Skype N	Meeting" above. Agencies outside of FBI or	users without access to	dial
from a	phone.	callers dial the access number	Enter	
[SEND] when prompte	d for secure digits	and the conference ID above followed by "	'#"[SEND]as prompted. Pleas	e e
contact the meeting or	ganizer with any q	uestions specific to this meeting invite.		
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From: Subject:	Joint Task Force Policy Guide Update UNCLASSIFIED//FOHO	b6 -1 _b7C -:
То:	Steven Kelly;] b7E -:
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Sent: Attached:	July 23, 2021 3:49 PM (UTC-04:00) Joint Task Force PG (7-20-2021).docx	b 5 -:
Classific	ation: UNCLASSIFIED//F9HC	
7/23 - Resched	luling due to conflict. Thank you.	
	for the last minute rescheduling. We are awaiting further review of this language by CTD management ence, the attached Word document includes some additional updates in subsections Please let me know if you have any questions.	b5 -1 b6 -1 b7C -:
	on, meeting in May, CD received an update that EAD Sanborn is supportive of e Joint Task Force Policy Guide.	b5 -:
any additional	f this meeting is to address collaboration comments received and make edits as needed. For your reference, the comments and language are in the below attachments. In will discuss next steps to move this policy to executive approval and publication.	
If this meeting	date/time does not work for you and you must be present, please let me know.	
Best regards,		b6 -1 b7C -: b7E -:
Policy Team Su Internal Policy Desk: Mobile:		
Join Skype Trouble Join	Meeting ing? Try Skype Web App	
Join by phor	ne e	
for Ly:	nc VTC and Secure Phone Bridge (WashDC) English (United States)	b7Е -∶
Find a local num	iber	

Conference ID:	D/E -
Forgot your dial-in PIN2 Help	
Important: Traditional phones or cell phones cannot be used for secure calling.	b7E -
Skype users on click "Join Skype Meeting" above. Agencies outside of FBI or users without access to dial	
from a phone. callers dial the access number Enter	
[SEND] when prompted for secure digits and the conference ID above followed by "#"[SEND]as prompted. Please	
contact the meeting organizer with any questions specific to this meeting invite.	
Classification: UNCLASSIFIED//FOND	

FEDERAL BUREAU OF INVESTIGATION FOI/PA DELETED PAGE INFORMATION SHEET

FOI/PA# 22-cv-149

Total Deleted Page(s) = 300

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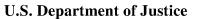
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