

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

CITIZENS FOR RESPONSIBILITY AND ETHICS
IN WASHINGTON,

Plaintiff,

v.

UNITED STATES GENERAL SERVICES
ADMINISTRATION,

Defendant.

Civil Action No. 18-cv-2017

DECLARATION OF TRAVIS LEWIS

I, Travis Lewis, pursuant to 28 U.S.C. § 1746, hereby declare as follows:

INTRODUCTION

1. I am the Deputy Director for GSA’s Office of Accountability and Transparency, where I serve as the Director of the Freedom of Information Act (“FOIA”) & Records Management Division of the Office of Administrative Services for the U.S. General Services Administration (“GSA”) headquartered at 1800 F Street, NW, Washington, D.C. As the FOIA Officer for GSA, a position I have held since February 4, 2013, my responsibilities include:

- (a) reviewing requests for access to GSA records filed under the FOIA, 5 U.S.C. § 552;
- (b) assigning FOIA requests to GSA FOIA Analysts for processing;
- (c) identifying offices within GSA (often referred to as “business units”) likely to possess responsive records;
- (d) liaising with business units to help identify specific custodians of records and collect responsive records;

(e) reviewing responsive records and determining applicable FOIA exemptions in accordance with the provisions of the FOIA and GSA regulations 41 C.F.R. §§ 105-60, *et seq.*;

(f) reviewing correspondence related to FOIA requests; and

(g) preparing responses to FOIA requests.

2. As GSA's sole FOIA Officer, I have the authority to determine which records should be released and/or withheld pursuant to the FOIA and to explain the rationale for GSA's disclosure determinations. The statements I make in this declaration are based on my review of the official files and records of GSA, my own personal knowledge acquired through the performance of my official duties, and information learned from others while performing my official responsibilities at GSA.

3. Due to the nature of my official duties, I am familiar with the procedures followed by GSA in responding to Plaintiff Citizens for Responsibility and Ethics in Washington's ("CREW") FOIA request, which was assigned tracking number GSA-2018-001496 and is at issue in the instant case ("FOIA Request"). This declaration explains the procedures that were followed by GSA in responding to Plaintiff's FOIA Request.

4. By facsimile dated July 30, 2018, CREW submitted a FOIA Request seeking the copies of all communications from January 20, 2017, to the present (which, when processed by GSA was July 30, 2018) between GSA and the White House concerning the renovation of FBI Headquarters.

GSA'S SEARCH AND RESPONSE TO PLAINTIFF'S FOIA REQUEST

5. I am aware from my communication with GSA's Office of General Counsel that Plaintiff, via email dated October 22, 2018, requested that GSA conduct a search for responsive records using the following search parameters:

Date range: January 20, 2017 to July 30, 2018

Custodians: emails between any GSA email address and any White House/EOP email address

Search terms:

headquarters

HQ

demoli!

renov!

rebuild

demo! W/3 rebuild [**explanation:** looking for all variations of demo! within three words of

rebuild]

"demolish rebuild"

remodel!

"construction project"

"new construction"

President W/10 order! OR direct! OR instruct! OR decide! OR want! [**explanation:** looking for all variations of these words within 10 words of President]

POTUS W/10 order! OR direct! OR instruct! OR decide! OR want! [**explanation:** looking for all variations of these words within 10 words of POTUS]

operating lease

leaseback

PA Ave!

Pennsylvania Avenue

6. Upon becoming aware of Plaintiff's proposed search terms, I tasked GSA's Office of the Chief Information Officer ("OCIO") to conduct a search for responsive records using said terms. The OCIO is the office within GSA that has access to all of the agency's electronic records and conducts all of the agency's electronic discovery searches for any potentially responsive documents. The OCIO searched all agency employees' emails for responsive electronic records via the search parameters requested by the FOIA requester.

7. GSA's search for electronic documents and subsequent review for relevancy returned 52 pages of responsive records using the terms as requested by Plaintiff. Upon reviewing the documents, I sent Plaintiff a letter dated December 7, 2018, stating that GSA has determined that these responsive documents are exempt from release pursuant to exemption 5 of the FOIA, 5 U.S.C. § 552(b)(5).

8. Thereafter, I sent a subsequent communication to Plaintiff further explaining that, within those 52 pages of responsive documents, GSA withheld 25 pages of these responsive records in their entirety pursuant to FOIA exemption 5, 5 U.S.C. § 552(b)(5), based upon the presidential communications privilege. Additionally, within these 25 pages, portions thereof are also being withheld pursuant to FOIA exemption 5 based upon the deliberative process privilege, as well as exemption 6, 5 U.S.C. § 552(b)(6), and exemption 7(C), 5 U.S.C. § 552(b)(7)(C), because disclosure of the withheld material could reasonably be expected to constitute an unwarranted invasion of personal privacy, and exemption 7(E), 5 U.S.C. § 552(b)(7)(E), as this information reflects the investigatory methodologies/procedures by GSA's Office of the Inspector General. The remaining 27 pages of responsive records are being withheld in their entirety pursuant to FOIA exemption 5 based upon the deliberative process privilege.

9. On March 15, 2019, I informed Plaintiff that GSA was providing the 25 pages of responsive documents that previously had been withheld in their entirety based on the Presidential Communications Privilege. However, within those documents, GSA withheld:

- 1) Per the fifth exemption of FOIA, certain draft documents in their entirety as they represent the agency's deliberative process and the attachment to page 23 of the responsive document pursuant to the Presidential Communications Privilege;
- 2) Specific email addresses and employee cellular telephone numbers pursuant to both exemption 6 and exemption 7(C) of the FOIA, because disclosure of the withheld material could reasonably be expected to constitute an unwarranted invasion of personal privacy; and
- 3) Information on page 6 pertaining to investigatory methodologies/procedures by GSA's Office of the Inspector General pursuant to the FOIA, 5 U.S.C. § 552(b)(7)(E), at the request of the GSA Office of Inspector General.

10. Thus, of the 52 responsive pages, GSA released in full 2 total pages of documents and 23 partially redacted pages of documents. The remaining 27 pages of documents were withheld in full. Where documents or portions of documents were partially or fully withheld, a

description of those withholdings and the reasons for those withholdings are provided in the accompanying Vaughn Index.

11. Beyond the search for electronic records, I also ensured that there were no paper records in the agency's possession that were responsive to Plaintiff's FOIA request. Each GSA employee that had responsive records per the OCIO search query using the terms provided by Plaintiff has confirmed that they do not have any paper records that pertain to or are responsive to Plaintiff's FOIA request.

12. Plaintiff later commented that it viewed a communication in materials publicized by Congress which were not included in the documents released by GSA.

13. To address this, on September 4, 2019, Duane Smith from the GSA Office of General Counsel requested OCIO conduct a second e-mail search using the following parameters:

Email addresses: gsa.gov

Dates: January 20, 2017 to July 30, 2018

Terms:

- [The specific email address for] Joseph G. Lai
- [The specific email address for] Timothy A. Pataki
- [The specific email address for] Joyce Y. Meyer
- [The specific email address for] Amy H. Swonger
- [The specific email address for] Daniel Q. Greenwood
- [The specific email address for] Andrew D. Abrams
- [The specific email address for] Kathleen L. Kraninger
- [The specific email address for] Daniel Z. Epstein

14. The e-mail search returned tens of thousands of pages. Those were further reviewed using the key term "EPW FBI".

15. A total of 13 pages were subsequently found to be responsive. Of those, 1 page was fully releasable and 12 pages were partially redacted. Of those 12 pages, some were

repetitive. The withholdings and the reasons for those withholdings are provided in the accompanying Vaughn Index.

16. In an effort to alleviate concerns by the Plaintiff, GSA conducted an additional search, using terms and parameters vetted, approved, and confirmed by CREW's counsel on April 27, 2020. The search consisted of the following:

Date Range: January 20, 2017 to July 30, 2018

Search Terms: (.eop.gov was used to capture OMB messages)

"Federal Bureau of Investigation" and ".eop.gov"

"Hoover" and ".eop.gov"

"FBI" and ".eop.gov"

"JEH" and ".eop.gov"

"Wray" and ".eop.gov"

"Rosenstein" and ".eop.gov"

"Deputy AG" and ".eop.gov"

GSA Custodian e-mail addresses:

emily.murphy@gsa.gov

daniel.mathews@gsa.gov

allison.brigati@gsa.gov

tim.horne@gsa.gov

mary.gibert@gsa.gov

robert.borden@gsa.gov

michael.gelber@gsa.gov

brennan.hart@gsa.gov

darren.blue@gsa.gov

bridget.brennan@gsa.gov

jack.stjohn@gsa.gov

17. The new search resulted in 97 pages of responsive material. GSA released 6 pages and withheld 91 pages pursuant to exemption 5 of FOIA.

**DESCRIPTION OF FOIA EXEMPTION 5, EXEMPTION 6 AND EXEMPTION 7
WITHHOLDINGS APPLIED TO RECORDS PROVIDED TO PLAINTIFF**

18. As described in the accompanying Vaughn Index, GSA applied the FOIA's fifth exemption in redacting information reflecting the agency's deliberative process, draft documents, attorney-client privileged communications, and a document pursuant to the Presidential Communications privilege. GSA applied the FOIA's sixth exemption in redacting specific email addresses and cellular phone numbers of agency employees, as release of this information would constitute a clearly unwarranted invasion of personal privacy. GSA also applied the FOIA's seventh exemption in redacting both personal information in law and information which would disclose techniques or procedures for law enforcement investigations.

19. It is foreseeable that release of information protected from disclosure under Exemptions 5, 6, and 7 would cause the following, substantial harms:

- a. With respect to material protected by the attorney-client privilege, release of this information would deprive GSA staff, and the agency in general, of the benefit of requesting and obtaining confidential advice from GSA attorneys. It would chill GSA's ability to protect attorney-client communications and stifle GSA's ability to have agency employees engage in discussions about matters of policy and agency action without concern over disclosure of proposed agency actions.
- b. With respect to material protected by the deliberative process privilege, release of these documents would reveal collaborative dialogue, both within GSA and among other agencies, about matters under consideration. Disclosure of these internal deliberations risk chilling government personnel from engaging in candid discussions about policy matters and

proposed agency actions, having the effect of undermining GSA's ability to perform its functions. Releasing this information would create confusion over versions in drafts, compared to final versions, and stifle future discussion. With respect to certain materials, releasing deliberative material would discourage individuals not to engage with the OGC, discourage interagency and intra-agency discussions, and adversely impact the vetting process through which many documents and discussions are subjected.

- c. With respect to material protected by the presidential communications privilege, revealing communications that are prepared by presidential advisers who have broad and significant responsibility for investigating and formulating advice for the President would frustrate the need for confidentiality in the communications within the Office of the President.
- d. With respect to email addresses, names of law enforcement personnel, and cellular telephone numbers, the public interest in release of this information is not outweighed by the privacy interest in nondisclosure.
- e. With respect to material protected as law enforcement records, techniques and procedures, release of identifying information for law enforcement personnel is not outweighed by the privacy interest in nondisclosure, and release of other law enforcement materials would adversely impact the Office of Inspector General's investigation functions and efforts.

SEGREGABILITY

20. 5 U.S.C. § 552(b) requires that “[a]ny reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of portions which are exempt.”

21. I reviewed each record, line-by-line, to identify information exempt from disclosure. With respect to the records that were released in part, all information not exempted from disclosure pursuant to the FOIA, as specified above, was correctly segregated and non-exempt portions were released.

CONCLUSION

22. As detailed above, GSA conducted reasonable and appropriate searches for documents responsive to CREW’s FOIA request. GSA used the terms provided by Plaintiff to conduct its first search for any responsive records. GSA then used terms approved by Plaintiff’s counsel to conduct a supplemental search for additional records. GSA produced to Plaintiff all responsive nonexempt records, and portions thereof, that were located as a result.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed this 7th day of July 2020, in Washington, D.C.

DocuSigned by:
Travis Lewis
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Travis Lewis
Deputy Director, Office of Accountability & Transparency
U.S. General Services Administration