

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CITIZENS FOR RESPONSIBILITY)	
AND ETHICS IN WASHINGTON)	
)	
Plaintiff,)	
)	
v.)	
)	Civil Action No. 19-1344
)	
DEPARTMENT OF STATE)	
)	
)	
Defendant.)	

SECOND DECLARATION OF ERIC F. STEIN

Pursuant to 28 U.S.C. § 1746, I, Eric F. Stein, declare and state as follows:

1. I am the Director of the Office of Information Programs and Services (“IPS”) of the United States Department of State (the “Department”) and have served in this capacity since January 22, 2017. Previously, I was the Acting Director since October 16, 2016, and Acting Co-Director since March 21, 2016. I am the Department official immediately responsible for responding to requests for records under the Freedom of Information Act (the “FOIA”), 5 U.S.C. § 552, the Privacy Act of 1974, 5 U.S.C. § 552a, and other applicable records access provisions. Prior to serving in this capacity, from April 2013, I worked directly for the Department’s Deputy Assistant Secretary (“DAS”) for Global Information Services (“GIS”) and served as a senior advisor and deputy to the DAS on all issues related to GIS’ offices and programs, which includes IPS. As the IPS Director, I have original classification authority and am authorized to classify and declassify national security information. I make the following statements based upon my personal knowledge, which in turn is based upon information furnished to me in the course of

my official duties. I am familiar with the efforts of Department personnel to process the subject request, and I am in charge of coordinating the agency's search and recovery efforts with respect to that request.

2. The core responsibilities of IPS include: (1) responding to records access requests made by the public (including under the FOIA, the Privacy Act, and the mandatory declassification review requirements of the Executive Order governing classified national security information), by members of Congress, by other government agencies, and those made pursuant to judicial process such as subpoenas, court orders, and discovery requests; (2) records management; (3) privacy protection; (4) national security classification management and declassification review; (5) corporate records archives management; (6) research; (7) operation and management of the Department's library; and (8) technology applications that support these activities.

3. I previously submitted a declaration in this case with the Department's Motion for Summary Judgment, filed on March 12, 2020 ("First Stein Decl."). *See* ECF 18-2. This Second Declaration provides additional information in support of the Department's motion for summary judgment and in opposition to Plaintiffs' cross-motion for summary judgment.

4. The Office of Press Operations (R/GPA/MD/PRS) supports the President and Secretary of State by explaining the foreign policy of the United States and the positions of the Department to domestic and foreign journalists, including by providing logistical support and expertise to the Secretary of State and other Department officials for events involving media participation. The Department's public communication of its foreign policy can be integral to the success of that foreign policy, making it critical for the Department to ensure that its public

messaging works in lockstep with its policy goals. One important decision for any press strategy is the decision about which journalists to invite to any select interview or targeted event, especially when it is with high-ranking officials like the Secretary of State. When deciding which journalists to invite, R/GPA/MD/PRS must weigh a variety of factors, including each journalist's or outlet's readership, reputation, location, and distribution, all with an eye to whether that journalist's or outlet's participation is likely to advance the foreign policy goals of the United States and the Department. Likewise, when deciding which individuals affiliated with the Department should participate in any select interview or targeted event, the Department considers whether each person's participation would advance the foreign policy goals of the United States and the Department. Officials in R/GPA/MD/PRS often engage in deliberative discussions about whom to invite to any particular targeted event. If such internal deliberations were publicly disclosed, R/GPA/MD/PRS personnel would likely be less candid and more circumspect in expressing their thoughts, which would impede the free-flowing discussion of issues necessary to reach a well-reasoned decision and execute a well-crafted press strategy.

5. In my previous declaration, I described the redactions in Documents C06827382, C06827384, C06827393, C06827424, C06827426, C06828153, and C06827478, which are all email chains among Department employees. First Stein Decl. ¶ 38. In that declaration, I stated that the Department withheld "the name of an individual in the context of an inquiry about whether that individual should be included on any of the scheduled conference calls." *Id.* The decision about whether to include that individual on the call, like all decisions about whom to include in press or media events, did not become a final decision until the call started. An invitation can be extended or rescinded at any time until the event begins, so a preliminary

decision about who to invite does not crystallize into a final agency decision until the event begins. This is analogous to a draft of an Action Memo or a draft of correspondence with a foreign leader, which generally do not become final until a principal signs the memo or transmits the letter. Plaintiff's brief suggests that the individual whose name is redacted is a representative of the advocacy organization Council on American-Islamic Relations ("CAIR"). I have reviewed those redactions, and the individual whose name is redacted is not a member or representative of the CAIR organization. As noted above, Department officials regularly confer about which journalists, which advocates, and which individuals affiliated with the Department should be invited to participate in any select interview or targeted event. Revealing the content of those communications would reveal employees' preliminary thoughts and ideas about potential participants and could reasonably be expected to have a chilling effect on the open and frank expression of ideas and recommendations that occurs when agency officials are constructing invitation lists for public events or communications with the Secretary of State.

6. In my previous declaration, I described the redactions in Document C06827961, which is a two-page email chain dated March 18, 2019, among Department employees about the participants in the March 18, 2019, call that is the subject of this FOIA request. At the time of this email, the individuals held the following positions: Andrew Laine, Deputy Director, Office of Press Relations; Drew Bailey, Media Outreach Officer, Office of Press Relations; Robert Greenan, Director, Office of Press Relations; Kuros Ghaffari, Media Outreach Officer, Office of Press Relations. The Office of Press Relations is now known as the Office of Press Operations. Plaintiff claims that the withheld material in this document would "shed light on why State ultimately excluded CAIR from the briefing." Even if that were true, that would only underscore

why the information is exempt from release under Exemption 5. The substance of the Department's final decision—i.e., its decision not to invite a member of the advocacy organization CAIR to an event for journalists—may not be protected by the deliberative process privilege, but the Department's internal discussions about whether and why to make that final decision are at the privilege's core, and revealing the nature of those discussions would likely impede the free-flowing discussion of issues necessary to reach a well-reasoned decision and execute a well-crafted press strategy.

7. In my previous declaration, I described the redactions in documents C06827453 and C06827455, which list the confirmed and pending calls on Secretary Pompeo's schedule for March 17, 2019, March 18, 2019, March 19, 2019, and March 28, 2019. The Department released the calls listed under the "Confirmed" headings but withheld the calls under the "Pending" and "Ops is tracking the following calls" headings. The Secretary of State's schedule is constantly in flux given the demanding nature of his position, the many competing demands on his time, and the possibility of emergency situations necessitating last-minute changes to his schedule. Release of information about non-confirmed calls could reasonably be expected to have a chilling effect on open and frank discussions about the Secretary of State's schedule and the people with whom the Secretary of State should speak. Release of information about tentatively scheduled, non-confirmed calls could reveal information about the relative importance the Secretary places on particular issues or particular discussions. For example, if a call were tentatively scheduled with one foreign official, but was later replaced by a call with a different foreign official, releasing the tentative schedule could reveal the relative importance the Secretary of State places on conversations with those officials. Any changes to the Secretary's

tentative schedule for the call on March 18, 2019 and other calls made or considered would be revealed by releasing the information redacted in Documents C06827453 and C06827455, and the information withheld accordingly reflects the deliberative process of how to accomplish the Department's goals rather than merely routine operating decisions or logistics.

8. In my previous declaration, I described the redactions in document C06827949, a three-page email chain discussing various religious media outlets. As noted in my prior declaration, the redacted discussions include a back-and-forth between two Department employees in which they share opinions and recommendations about specific media outlets for the purpose of deciding whether including those outlets in this particular event would further the goals of the Department. Department officials would much less candidly share their opinions about outside organizations if those opinions were revealed publicly, which would undermine the free flow of opinions and recommendations that is essential to agency decision-making.

9. Plaintiff has requested that the Department lift its redaction of "the email domain[]" associated with Secretary Pompeo's email address on Document C06827829. I have reviewed that document, and the email domain does not appear on the unredacted version of the document. The only information under the redaction is the username associated with Secretary Pompeo's @state.gov email address.

10. Plaintiff has requested that the Department lift its redaction of "the email domain[]" associated with the email address of then-Deputy Secretary of State John J. Sullivan on Documents C06827453 and C06827455. I have reviewed those documents and, as I stated in my first declaration, the email domain is "@state.gov." First Stein Decl. ¶ 39. Removing the redaction of the domain name would not provide any additional information.

11. In my previous declaration, I inadvertently omitted a description of one document that was released in part (Document C06828154). On July 14, 2020, the Department exercised its discretion to lift all redactions in that document and released it in full to the Plaintiffs.

* * *

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

Executed this 15th day of July 2020, Washington D.C.



Eric F. Stein