

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

CITIZENS FOR RESPONSIBILITY AND  
ETHICS IN WASHINGTON,

Plaintiff,

v.

U.S. DEPARTMENT OF JUSTICE,

Defendant.

Case No. 1:19-cv-1552 (ABJ)

**DEFENDANT’S STATEMENT OF MATERIAL FACTS  
AS TO WHICH THERE IS NO GENUINE DISPUTE**

Defendant Department of Justice (DOJ or the Department) hereby states pursuant to Local Rule 7(h)(1) that no genuine dispute exists as to the following material facts:

1. April 18, 2019, Anne L. Weismann on behalf of plaintiff Citizens for Responsibility and Ethics in Washington (CREW or Plaintiff) submitted a FOIA request to DOJ’s Office of Legal Counsel (OLC) seeking “all documents pertaining to the views OLC provided Attorney General William Barr on whether the evidence developed by Special Counsel Robert Mueller is sufficient to establish that the President committed an obstruction-of-justice offense.” *See* Declaration of Paul P. Colborn ¶ 8 & Ex. B at 1 (the FOIA Request). The FOIA Request sought records without a date limitation. *Id.* Plaintiff requested expedited processing of its request. *Id.* at 3-5.

2. By letter dated April 26, 2019, Mr. Colborn responded to Ms. Weismann on behalf of OLC, acknowledging receipt of the FOIA Request. *See* Colborn Decl. ¶ 9 & Ex. C at 1 (OLC Acknowledgment). By the April 26, 2019 letter, OLC also informed Ms. Weismann that

DOJ's Office of Public Affairs had denied the request for expedited processing. *See* Colborn Decl., Ex. C at 1.

3. Plaintiff filed the instant lawsuit on May 28, 2019. *See* Compl, ECF No. 1. At that time, DOJ had not released any responsive records. *See* Answer ¶ 19, ECF No. 11.

4. On February 11, 2020, plaintiff agreed to limit the scope of the Request to all material to documents actually provided by OLC to Attorney General William Barr or the Office of the Attorney General on the subject of whether the evidence developed by Special Counsel Mueller is sufficient to establish that the President committed an obstruction-of-justice offense. *See* Colborn Decl. ¶ 10.

5. By letter dated May 22, 2020, OLC responded to Plaintiff's FOIA Request. *See* Colborn Decl. ¶ 11 & Ex. D at 1 (OLC Response). The OLC Response informed Plaintiff that OLC had identified 61 responsive records. *Id.* The OLC Response further informed Plaintiff that 32 responsive records were enclosed with some redactions, one responsive record had been referred to DOJ's Office of Information Policy (OIP), and the remaining 28 responsive records had been withheld in full pursuant to FOIA Exemption 5. *See* Colborn Decl., Ex. D at 1. The 32 responsive records were furnished to Plaintiff that same day. *Id.*

6. The OLC Response informed Plaintiff that the withheld documents were protected by the attorney-client and deliberative process privileges and were not appropriate for discretionary release. *Id.*

7. On May 8, 2020, OLC referred a single nine-page memorandum to OIP for processing and direct response to Plaintiff. Declaration of Vanessa R. Brinkmann ¶ 7. The memorandum was referred to OIP because it was solicited by and written for the Attorney General. *Id.*

8. By letter dated June 17, 2020, OIP released the memorandum in part to Plaintiff, withholding certain information on page one pursuant to the deliberative process and attorney-client privileges of Exemption 5, withholding pages two through eight in full pursuant to the same privileges of Exemption 5, and releasing page nine in full. *See* Brinkmann Decl. ¶ 7 & Ex. A.

9. OIP's June 17, 2020 release constituted DOJ's final response to Plaintiff's FOIA request. Joint Status Report at 1, ECF No. 14.

10. Plaintiff is not challenging the adequacy of DOJ's search for responsive records, DOJ's withholdings pursuant to Exemption 6, or DOJ's withholdings pursuant to Exemption 5 from the 32 documents released with redactions on May 22, 2020 by OLC to Plaintiff. *See* Colborn Decl. ¶¶ 12, 14.

Dated: August 12, 2020

Respectfully submitted,

ETHAN P. DAVIS  
Acting Assistant Attorney General

ELIZABETH J. SHAPIRO  
Deputy Director  
Civil Division, Federal Programs Branch

*/s/ Julie Straus Harris*  
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JULIE STRAUS HARRIS (DC Bar # 1021928)  
Senior Trial Counsel  
United States Department of Justice  
Civil Division, Federal Programs Branch  
1100 L Street NW, Room 11514  
Washington, D.C. 20005  
Tel: (202) 353-7633  
Fax: (202) 616-8470  
E-mail: [julie.strausharris@usdoj.gov](mailto:julie.strausharris@usdoj.gov)

*Counsel for Defendant*