Schools, Scott (ODAG)

From:	Schools, Scott (ODAG)
Sent:	Tuesday, January 2, 2018 10:52 AM
To:	Colborn, Paul P (OLC)
Subject:	Help wanted
Attachments:	2017-12-28 CHM ltr to DAG re Subpoena Compliance - 28 Dec 17 FINAL.pdf; Nunes letter.v2.docx

Paul:

We received the attached letter from Nunes on Thursday. I have attached a very rough draft response, and would value your review and input. Thanks.

Scott

U.S. HOUSE OF REPRESENTATIVES
PERMANENT SELECT COMMITTEE
ON INTELLIGENCE

HVC-304, THE CAPITOL
WASHINGTON, DC 20515
(202) 225 4121

December 28, 2017

The Honorable Rod Rosenstein
Deputy Attorney General
U.S. Department of Justice
1201 Pennsylvania Ave, NW
Washington, D.C. 20004

Dear Mr. Rosenstein:

The House Permanent Select Committee on Intelligence (the Committee) writes in response to the Department of Justice's (DOJ) and the Federal Bureau of Investigation's (FBI) failure to fully produce responsive documents and provide the requested witnesses in compliance with the subpoenas issued over *four months ago*, on August 24, 2017.

Several weeks ago, DOJ informed the Committee that the basic investigatory documents demanded by the subpoenas, FBI Form FD-302 interview summaries, did not exist. However, shortly before my meeting with you in early December, DOJ subsequently located and produced numerous FD-302s pertaining to the Steele dossier, thereby rendering the initial response disingenuous at best. As it turns out, not only did documents exist that were directly responsive to the Committee's subpoenas, but they involved senior DOJ and FBI officials who were swiftly reassigned when their roles in matters under the Committee's investigation were brought to light. Given the content and impact of these supposedly newly-discovered FD-302s, the Committee is no longer able to accept your purported basis for DOJ's blanket refusal to provide responsive FBI Form FD-1023s—documenting meetings between FBI officials and FBI confidential human sources—or anything less than full and complete compliance with its subpoenas.

As a result of the numerous delays and discrepancies that have hampered the process of subpoena compliance, the Committee no longer credits the representations made by DOJ and/or the FBI regarding these matters. Accordingly, DOJ and the FBI are instructed to promptly produce to the Committee no later than January 3, 2018 **ALL** outstanding records identified as responsive to the August 24 subpoenas, including but not limited to:

- All responsive FD-1023s, including all reports that summarize meetings between FBI confidential human sources and FBI officials pertaining to the Steele dossier;
- All responsive FD-302s not previously provided to the Committee; and
- In addition to the FD-302s and FD-1023s, certain responsive analytical and reference documents that were specifically identified and requested by the Committee, and supposedly subject to imminent production, as of December 15.

Should DOJ decide to withhold any responsive records, or portions thereof, from the Committee, it must, consistent with the subpoena instructions, provide a written response, under your signature, detailing the legal justification for failing to comply with valid congressional subpoenas.

Additionally, by the same deadline, please provide—in writing—available dates in January 2018 for interviews with the following officials:

- Former DOJ Associate Deputy Attorney General Bruce Ohr;
- FBI Supervisory Special Agent (SSA) Peter Strzok;
- FBI Attorney James Baker;
- FBI Attorney Lisa Page;
- FBI Attorney Sally Moyer; and
- FBI Assistant Director for Congressional Affairs Greg Brower.

The Committee further reminds you of these other outstanding requests for information:

- Details concerning an apparent April 2017 meeting with the media involving DOJ/FBI personnel, including DOJ Attorney Andrew Weissman (due December 13) and
- The remaining text messages between SSA Strzok and Ms. Page (due December 15).

Unfortunately, DOJ/FBI's intransigence with respect to the August 24 subpoenas is part of a broader pattern of behavior that can no longer be tolerated. As I said in a public statement several weeks ago, when the reason for SSA Strzok's removal from the Special Counsel investigation was leaked to the *Washington Post* before that reason was provided to this Committee, **at this point it seems the DOJ and FBI need to be investigating themselves.**

I look forward to your timely written response.

Sincerely,

Devin Nunes
Chairman

Panuccio, Jesse (OASG)

From:	Panuccio, Jesse (OASG)
Sent:	Thursday, January 18, 2018 1:03 PM
To:	Engel, Steven A. (OLC)
Subject:	FW: Activity in Case 1:17-cv-01167-JEB CABLE NEWS NETWORK, INC. v. FEDERAL BUREAU OF INVESTIGATION Order
Attachments:	MSJ 17-1167.pdf

MSJ attached.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CABLE NEWS NETWORK, INC., Plaintiff, v. FEDERAL BUREAU OF INVESTIGATION, Defendant.	Civil Action No. 1:17-cv-01167-JEB
GANNETT SATELLITE INFORMATION NETWORK, LLC, d/b/a USA TODAY, *et al*., Plaintiffs, v. DEPARTMENT OF JUSTICE, Defendant.	Civil Action No. 1:17-cv-01175-JEB
JUDICIAL WATCH, INC., Plaintiff, v. UNITED STATES DEPARTMENT OF JUSTICE, Defendant.	Civil Action No. 1:17-cv-01189-JEB
FREEDOM WATCH, INC., Plaintiff, v. UNITED STATES DEPARTMENT OF JUSTICE and FEDERAL BUREAU OF INVESTIGATION, Defendants.	Civil Action No. 1:17-cv-01212-JEB

THE DAILY CALLER NEWS FOUNDATION, Plaintiff, v. UNITED STATES DEPARTMENT OF JUSTICE, Defendant.	Civil Action No. 1:17-cv-01830-JEB

MEMORANDUM IN SUPPORT OF MOTION FOR PARTIAL SUMMARY JUDGMENT

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INTRODUCTION

These consolidated actions arise under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552. They involve FOIA requests for records memorializing conversations between then-Director of the Federal Bureau of Investigation ("FBI"), James B. Comey, and President Donald J. Trump, which this memorandum will refer to as the "Comey Memos."

The FBI, under the oversight of Robert S. Mueller III, who has been appointed to serve as special counsel ("Special Counsel"), is currently conducting an investigation into the Russian government's efforts to influence the 2016 Presidential election. Although this investigation has been the subject of intense public speculation and media reporting, in order to preserve the integrity of the investigation, neither the FBI nor the Special Counsel has officially confirmed any details regarding the investigation.

The Comey Memos at issue in these consolidated cases pertain to this sensitive investigation. The FBI and the Special Counsel have determined that the disclosure of these records at the current time, while this sensitive and high-profile investigation remains ongoing, would be reasonably expected to adversely affect the integrity of that investigation. Accordingly, the Comey Memos have been properly withheld in full pursuant to FOIA Exemption 7(A), which protects documents compiled for law enforcement purposes where their disclosure "could reasonably be expected to interfere with enforcement proceedings." 5 U.S.C. § 552(b)(7)(A).

The FBI has also properly withheld portions of the responsive records pursuant to Exemptions 1 and 3, as they contain information that has been properly classified in accordance with the operative Executive Order, some of which also falls within the ambit of section 102A(i)(1) of the National Security Act of 1947, 50 U.S.C. § 3024(i)(1). Information concerning

law enforcement techniques and procedures that have been used in connection with the Russian interference investigation is also being withheld pursuant to FOIA Exemption 7(E). Finally, identifying information of third parties mentioned in the documents has been properly withheld pursuant to Exemptions 6 and 7(C), because the disclosure of this personal information implicates significant privacy interests that are not outweighed by any cognizable public interest in disclosure.

Accordingly, summary judgment should be granted in favor of defendants FBI and the United States Department of Justice.

BACKGROUND

I. FACTUAL BACKGROUND

On March 20, 2017, then-FBI Director James B. Comey confirmed in public testimony before Congress "that the FBI, as part of our counterintelligence mission, is investigating the Russian government's efforts to interfere in the 2016 presidential election, and that includes investigating the nature of any links between individuals associated with the Trump campaign and the Russian government and whether there was any coordination between the campaign and Russia's efforts." Statement Before the House Permanent Select Committee on Intelligence, *available at* https://www.fbi.gov/news/testimony/hpsci-hearing-titled-russian-active-measures-investigation (last visited Oct. 12, 2017). He added that "[a]s with any counterintelligence investigation, this will also include an assessment of whether any crimes were committed." *Id*. Then-Director Comey declined to say more regarding the scope or focus of the investigation during that public hearing, as the investigation was still open and ongoing. *Id.*

Director Comey was terminated as FBI Director on May 9, 2017. *See, e.g.*, Compl. (No. 17-1167) ¶ 7 (Dkt. No. 1); Declaration of David M. Hardy, Section Chief, Record/Information Dissemination Section, Records Management Division, FBI ("Hardy Decl.") ¶ 108 (submitted herewith). On May 17, 2017, Deputy Attorney General Rod Rosenstein named former FBI Director Robert S. Mueller III as Special Counsel to oversee the Russia investigation. DOJ Order No. 3915-2017, Appointment of Special Counsel to Investigate Russian Interference with the 2016 Presidential Election and Related Matters (May 17, 2017). Under the terms of his appointment, Special Counsel Mueller is authorized to "conduct the investigation confirmed by then-FBI Director James B. Comey in testimony before the House Permanent Select Committee on Intelligence on March 20, 2017, including (i) any links and/or coordination between the Russian government and individuals associated with the campaign of President Donald Trump; and (ii) any matters that arose or may arise directly from the investigation; and (iii) any other matters within the scope of 28 C.F.R. § 600.4(a)." *Id.* In addition, "[i]f the Special Counsel believes it necessary and appropriate, the Special Counsel is authorized to prosecute federal crimes arising from the investigation of these matters." *Id.*

The Russia investigation is ongoing. Hardy Decl. ¶ 66. No further information about the subjects, scope, or focus of the investigation has been officially acknowledged by the FBI, Special Counsel Mueller, or any representative of the Department of Justice. *Id.* However, as the complaints filed in these consolidated cases indicate, there has been much media speculation and information provided by unofficial sources circulating in the public domain.

On June 8, 2017, former Director Comey, then a private citizen, testified under oath in open session before the Senate Select Committee on Intelligence ("SSCI"). *See, e.g.,* Compl.

(No. 17-1167), ¶ 22 (Dkt. No. 1). In his Statement for the Record, released to the public on June 7, 2017, former Director Comey outlined how he had drafted contemporaneous memoranda after various meetings and conversations with President Trump in which he discussed matters pertaining to the Russia investigation. https://www.intelligence.senate.gov/sites/default/files/documents/os-jcomey-060817.pdf ("June 7 Statement"). In his live testimony on June 8, 2017, former Director Comey again discussed his communications with President Trump regarding, among other things, the Russia investigation, referencing again his contemporaneous memos.[1] *See, e.g.,* Compl. (No. 17-1167), ¶ 22 (Dkt. No. 1); Am. Compl. (No. 17-1175), ¶¶ 14-15 (Dkt. No. 9). With respect to his conversations with President Trump, former Director Comey stated that he had "not included every detail" in his testimony. June 7 Statement, at 1.

II. THE FOIA REQUESTS AND RESPONSES

A. Cable News Network's ("CNN's") Request (Case No. 17-1167)

On May 16, 2017, CNN producer Greg Wallace submitted a FOIA request on behalf of CNN to the FBI for "copies of all records of notes taken by or communications sent from FBI Director James Comey regarding or documenting interactions (including interviews and other conversations) with President Donald Trump." Compl. (No. 17-1167), ¶¶ 12, 13 & Exh. A (Dkt. No. 1). The FBI responded to CNN's request by letter dated June 16, 2017, stating that the material requested was being withheld pursuant to FOIA Exemption 7(A), 5 U.S.C. § 552(b)(7)(A). Hardy Decl. ¶ 13 & Exh. CNN-F. The FBI further stated that "[t]he records

[1] The video of former Director Comey's testimony may be found at https://www.intelligence.senate.gov/hearings/open-hearing-former-director-james-comey-fbi (last visited Oct. 12, 2017). A transcript is published at http://www.politico.com/story/2017/06/08/full-text-james-comey-trump-russia-testimony-239295 (last visited Oct. 12, 2017) ("Transcript").

responsive to your request are law enforcement records. There is a pending or prospective law enforcement proceeding relevant to these responsive records, and release of the information in these responsive records could reasonably be expected to interfere with enforcement proceedings."[2] *Id.*, Ex. CNN-F.

B. Gannett Satellite Info. Network, LLC, *et al.*'s Requests (Case No. 17-1175)

By letter dated May 12, 2017, USA TODAY (the business name of Gannett Satellite Information Network), along with USA TODAY reporter Brad Heath, submitted a FOIA request to the FBI requesting, *inter alia*, copies of "any reports, letters, memoranda, electronic mail messages, FD-302s or other records memorializing conversations between former Director Comey and President Trump." Am. Compl. ¶¶ 17-18 (Dkt. No. 9). By letter dated May 17, 2017, the James Madison Project ("JMP") and Garrett Graff submitted a FOIA request to the FBI, requesting, *inter alia*, "[a]ny memoranda, notes, summaries and/or recordings . . . memorializing conversations Director Comey had with President Trump." *Id.* ¶¶ 27, 35-36. Also on May 17, 2017, JMP and Lance Markay submitted a FOIA request to the FBI seeking, *inter alia*, "[t]he memorandum drafted by Director Comey memorializing his conversation with President Trump on February 14, 2017." *Id.* ¶¶ 44, 50-51.

The FBI responded to all three of the above requests by letters dated June 16, 2017. Hardy Decl. ¶¶ 19, 25, 33 & Exs. USA Today-D, JMP/Graff-D, JMP/Markay-C. In all three letters, the FBI stated that the material requested was being withheld pursuant to FOIA

[2] CNN also requested expedited treatment of its request. Compl. (No. 17-1167), ¶ 13 & Exh. A. However, this claim is now moot as the FBI has responded to the request. *See Muttitt v. Dep't of State*, 926 F. Supp. 2d 284, 296 (D.D.C. 2013).

Exemption 7(A), 5 U.S.C. § 552(b)(7)(A). Hardy Decl., Exs. USA Today-D, JMP/Graff-D, JMP/Markay-C. The FBI further stated that "[t]he records responsive to your request are law enforcement records. There is a pending or prospective law enforcement proceeding relevant to these responsive records, and release of the information in these responsive records could reasonably be expected to interfere with enforcement proceedings." *Id.*

JMP, Graff, and Markay filed administrative appeals challenging the FBI's withholding, which were denied on July 12, 2017. Am. Compl. ¶¶ 38-39, 53-54.

The FOIA requests submitted by USA TODAY, JMP, Graff, and Markay also requested additional related records. Am. Compl. ¶¶ 27, 35-36, 44, 50-51; Hardy Decl. ¶¶ 14, 21, 30. The government is still conducting searches for documents responsive to the remaining portions of these requests, as well as the follow-up responsiveness review of documents identified as potentially responsive. Joint Status Report, at 2 (Dkt. No. 17). The present motion does not include these parts of plaintiffs' FOIA requests. The parties will file a further report and proposed production schedule as to these parts of the requests by October 18, 2017. *Id.*

C. Judicial Watch's Request (Case No. 17-1189)

On May 16, 2017, Judicial Watch electronically submitted a FOIA request to the FBI, seeking "[t]he memorandum written by former Director James Comey memorializing his meeting and conversation with President Trump regarding the FBI's investigation of potential Russian interference in the 2016 United States presidential election. For purposes of clarification, this memorandum was reportedly written on or about February 13, 2017 and is the subject of a New York Times article (enclosed) dated May 16, 2017." Compl. (No. 17-1189) ¶ 5 (Dkt. No. 1). The FBI responded to Judicial Watch's request by letter dated June 16, 2017,

stating that the material requested was being withheld pursuant to FOIA Exemption 7(A), 5 U.S.C. § 552(b)(7)(A). Hardy Decl. ¶ 41 & Ex. Judicial Watch-D. The FBI further stated that "[t]he records responsive to your request are law enforcement records. There is a pending or prospective law enforcement proceeding relevant to these responsive records, and release of the information in these responsive records could reasonably be expected to interfere with enforcement proceedings." *Id.*, Ex. Judicial Watch-D.

D. Freedom Watch's Request (Case No. 17-1212)

On May 18, 2017, Freedom Watch submitted a FOIA request to the FBI (along with an identical one to the Department of Justice's Criminal Division)[3] seeking access to "[a]ny and all documents and records as defined above, which constitute, refer, or relate in any way to any memoranda prepared, written and/or issues by former FBI Director James Comey concerning Barack Obama, Hillary Clinton, Bill Clinton, Lieutenant General Michael Flynn, and President Donald Trump." Compl. (No. 17-1212) ¶ 6 (Dkt. No. 1). With regard to the part of Freedom Watch's request for documents constituting "any memoranda prepared, written and/or issued by former FBI Director James Comey concerning . . . . President Donald Trump," the FBI responded by letter dated June 16, 2017, stating that the material requested was being withheld pursuant to FOIA Exemption 7(A), 5 U.S.C. § 552(b)(7)(A). Hardy Decl. ¶ 48 & Ex. Freedom Watch-D. The FBI further stated that "[t]he records responsive to your request are law enforcement records. There is a pending or prospective law enforcement proceeding relevant to

[3] The Court granted the Department of Justice's motion for summary judgment as to the request addressed to DOJ's Criminal Division on September 22, 2017 (Dkt. Nos. 18 & 19).

these responsive records, and release of the information in these responsive records could reasonably be expected to interfere with enforcement proceedings." *Id.*, Ex. Freedom Watch-D.

The FBI is still conducting searches for documents responsive to the remaining portions of Freedom Watch's request, that is, for "[a]ny and all documents and records . . . , which constitute, refer, or relate in any way to any memoranda prepared, written and/or issues by former FBI Director James Comey concerning Barack Obama, Hillary Clinton, Bill Clinton, Lieutenant General Michael Flynn, and President Donald Trump," excluding the Comey Memos, as well as the follow-up responsiveness review of documents identified as potentially responsive. Joint Status Report, at 2 (Dkt. No. 17); *see* Compl. (No. 17-1212) ¶ 6 (Dkt. No. 1). The present motion does not include these parts of Freedom Watch's FOIA request. The parties will file a further report and proposed production schedule as to these parts of the requests by October 18, 2017. Joint Status Report, at 2 (Dkt. No. 17).

E. The Daily Caller's Request (Case No. 17-1830)

On June 1, 2017, The Daily Caller News Foundation submitted a FOIA request to the FBI, seeking "all unclassified memoranda authored by former FBI Director James Comey that contemporaneously memorialized his discussions with President Donald Trump and his aides." Compl. (Case No. 17-1830) ¶ 5 (Dkt. No. 1). The FBI responded by letter dated June 16, 2017, stating that the material requested was being withheld pursuant to FOIA Exemption 7(A), 5 U.S.C. § 552(b)(7)(A). Hardy Decl. ¶ 55 & Ex. Daily Caller-D. The FBI further stated that "[t]he records responsive to your request are law enforcement records. There is a pending or prospective law enforcement proceeding relevant to these responsive records, and release of the information in these responsive records could reasonably be expected to interfere with enforcement proceedings." *Id.*, Ex. Daily Caller-D.

ARGUMENT

The FOIA's "basic purpose" reflects a "general philosophy of full agency disclosure unless information is exempted under clearly delineated statutory language." *John Doe Agency v. John Doe Corp*., 493 U.S. 146, 152 (1989). "Congress recognized, however, that public disclosure is not always in the public interest." *CIA v. Sims*, 471 U.S. 159, 166-67 (1985). Thus, FOIA is designed to achieve a "workable balance between the right of the public to know and the need of the Government to keep information in confidence to the extent necessary without permitting indiscriminate secrecy." *John Doe*, 493 U.S. at 152 (quoting H.R. Rep. No. 1497, 89th Cong., 2 Sess. 6 (1966), *reprinted in* 1966 U.S.C.C.A.N. 2418, 2423). To that end, FOIA mandates disclosure of government records unless the requested information falls within one of nine enumerated exceptions. *See* 5 U.S.C. § 552(b). While these exemptions are to be "narrowly construed," *FBI v. Abramson*, 456 U.S. 615, 630 (1982), courts still must respect the balance that Congress struck and give the exemptions a "meaningful reach and application." *John Doe Agency*, 493 U.S. at 152.

For a defendant agency to prevail on a motion for summary judgment in FOIA litigation, it must satisfy two elements. First, the agency must "demonstrate that [it] conducted an adequate search which was reasonably calculated to uncover all relevant documents. Second, materials that are withheld must fall within a FOIA statutory exemption." *Leadership Conf. on Civil Rights v. Gonzales*, 404 F. Supp. 2d 246, 252 (D.D.C. 2005) (citations omitted). Courts review agencies' responses to FOIA requests de novo. 5 U.S.C. § 552(a)(4)(B).

To demonstrate the adequacy of its search, "the agency may submit affidavits or declarations that explain in reasonable detail the scope and method of the agency's search."

Dorsey v. Exec. Office for U.S. Attorneys, 926 F. Supp. 2d 253, 255-56 (D.D.C. 2013) (citing *Perry v. Block*, 684 F.2d 121, 126 (D.C. Cir. 1982)). "In the absence of contrary evidence, such affidavits or declarations are sufficient to demonstrate an agency's compliance with the FOIA." *Id*. at 256 (citing *Perry*, 684 F.2d at 127). To meet its burden of justifying withholding of documents, the government may submit an agency declaration that describes the withheld material with reasonable specificity and the reasons for non-disclosure. *See Armstrong v. Exec. Office of the President*, 97 F.3d 575, 577-78 (D.C. Cir. 1996).

The declarations submitted by the agency are accorded a presumption of good faith, *Safecard Servs., Inc. v. Securities & Exchange Comm'n*, 926 F.2d 1197, 1200 (D.C. Cir. 1991), and a presumption of expertise, *Piper v. U.S. Dep't of Justice*, 294 F. Supp. 2d 16, 20 (D.D.C. 2003), *jdgmt. aff'd*, 222 F. App'x 1 (2007). Summary judgment is to be freely granted where, as here, the declarations reveal that there are no material facts genuinely at issue and that the agency is entitled to judgment as a matter of law. *See Alyeska Pipeline Serv. Co. v. EPA*, 856 F.2d 309, 314-15 (D.C. Cir. 1988); *Military Audit Project v. Casey*, 656 F.2d 724, 738 (D.C. Cir. 1981). Accordingly, "FOIA cases are typically and appropriately decided on motions for summary judgment." *Moore v. Bush,* 601 F. Supp. 2d 6, 12 (D.D.C. 2009).

I. THE SEARCH FOR RESPONSIVE RECORDS WAS REASONABLE

"The adequacy of an agency's search is measured by a standard of reasonableness and is dependent upon the circumstances of the case." *Weisberg v. U.S. Dep't of Justice*, 705 F.2d 1344, 1351 (D.C. Cir. 1983) (internal quotation marks and citations omitted). An agency "fulfills its obligations under FOIA if it can demonstrate beyond material doubt that its search was reasonably calculated to uncover all relevant documents." *Ancient Coin Collectors Guild v.*

U.S. Dep't of State, 641 F.3d 504, 514 (D.C. Cir. 2011) (citations and internal quotation marks omitted).

The FBI's search for records responsive to plaintiffs' requests is described in the declaration of David Hardy. Section Chief Hardy explained that, first, personnel in the FBI's Records Management Division ("RMD") responsible for compiling and preserving FBI records, including the records of former Director Comey after his removal, were consulted about the existence and location of any responsive records. Hardy Decl. ¶ 62. These personnel consulted their collection of former Director Comey's records and identified what they believed to be the set of records constituting the Comey Memos. *Id.* They then provided counsel from the FBI's Office of General Counsel ("OGC") and Record/Information Dissemination Section personnel access to the collection of former Director Comey's materials and the set of records therein that they had identified as the Comey Memos. *Id.* Counsel in OGC's National Security and Cyber Law Branch who were already familiar with the relevant records confirmed that the records identified by RMD as the Comey Memos were, in fact, the full set of memos. *Id.* This search protocol was "reasonably calculated" to uncover all relevant documents under "the circumstances of the case." Accordingly, the FBI conducted an adequate search.

II. THE COMEY MEMOS ARE EXEMPT FROM DISCLOSURE PURSUANT TO FOIA EXEMPTION 7(A)

As explained in the Declaration of David Hardy, as well as the additional declaration by the Federal Bureau of Investigation that has been submitted *in camera* and *ex parte* because it contains law enforcement sensitive information, the FBI and the Special Counsel have determined that the release of the Comey Memos, or the disclosure of any further information regarding the number, volume, or substance of the Comey Memos, could reasonably be expected

to interfere with the ongoing Russia investigation. Hardy Decl. ¶¶ 69-72. The FBI has made its assessment regarding the potential harm that would be caused to the integrity of the current investigation with full knowledge of the disclosures previously made by former Director Comey on this subject. *Id.* ¶ 71. As detailed further below, these agency declarations plausibly and logically explain how the disclosure of any portion of the memoranda could compromise this important law enforcement investigation. Accordingly, the FBI properly withheld these documents in their entirety pursuant to FOIA Exemption 7(A), 5 U.S.C. § 552(b)(7)(A).

A. Exemption 7(A) Applies to the Comey Memos

FOIA Exemption 7(A) authorizes the withholding of "records or information compiled for law enforcement purposes . . . to the extent that production of such law enforcement records or information . . . could reasonably be expected to interfere with enforcement proceedings." 5 U.S.C. § 552(b)(7)(A). Unlike with other exemptions, the government is not required to provide a *Vaughn* index to support its withholdings under Exemption 7(A) but may address the documents on a categorical basis. *NLRB v. Robbins Tire & Rubber Co.*, 437 U.S. 214, 236 (1978); *Campbell v. Dep't of Health & Human Servs.*, 682 F.2d 256, 265 (D.C. Cir. 1982). To satisfy the government's burden, a declaration need only describe the type of record at issue in terms sufficient to "allow[] the court to trace a rational link between the nature of the document and the alleged likely interference." *Crooker v. Bureau of Alcohol, Tobacco & Firearms*, 789 F.2d 64, 67 (D.C. Cir. 1986). The government has met its burden to establish the applicability of this exemption here.

To establish the applicability of this exemption, the government must first show that the records were "compiled for law enforcement purposes." Investigative documents qualify as

records "compiled for law enforcement purposes" if the agency's declarations establish (1) "a rational nexus between the investigation and one of the agency's law enforcement duties"; and (2) "a connection between an individual or incident and a possible security risk or violation of federal law." *Ctr. for Nat'l Sec. Studies v. U.S. Dep't of Justice*, 331 F.3d 918, 926 (D.C. Cir. 2003) (internal quotation marks omitted); *see also Quiñon v. FBI*, 86 F.3d 1222, 1228 (D.C. Cir. 1996). "[L]ess exacting proof" of a legitimate law enforcement purpose is required of law enforcement agencies such as the Department of Justice and the FBI. *Pratt v. Webster*, 673 F.2d 408, 418 & n.25 (D.C. Cir. 1982); *see also Ctr. for Nat'l Sec. Studies*, 331 F.3d at 926. Information initially obtained in a record made for law enforcement purposes continues to meet the threshold requirements of Exemption 7 where that recorded information is reproduced or summarized in a new document prepared for a non-law-enforcement purpose. *Abramson*, 456 U.S. at 631-32. In addition, records not initially obtained or generated for law enforcement purposes may qualify if they were subsequently assembled for a valid law enforcement purpose. *John Doe*, 493 U.S. at 154-55; *see also Kansi v. U.S. Dep't of Justice*, 11 F. Supp. 2d 42, 44 (D.D.C. 1998) ("[O]nce [the records at issue] are assembled by the FBI for its law enforcement purposes, all documents qualify for protection under Exemption 7 regardless of their original source.").

Here, the Comey Memos contain information compiled during the FBI's Russia investigation, which is now being continued by the FBI and the Special Counsel. Hardy Decl. ¶ 67. That investigation is unquestionably within the law enforcement duties of the FBI, which include undertaking counterintelligence and national security investigations, and detecting and investigating possible violations of Federal criminal laws. *See* 28 U.S.C. § 533; Hardy Decl.

¶ 65. It is also within the authority of the Special Counsel, which has specifically been tasked with investigating Russian involvement in the election and prosecuting any federal crimes unearthed. DOJ Order No. 3915-2017. And the investigation is based on a viable connection between an "incident" (alleged Russian interference in the election) and a possible security risk or violation of federal law. *See* Transcript. Finally, further explanation of how the memos constitute records "compiled for law enforcement purposes" is included in the *in camera* and *ex parte* declaration submitted with this memorandum. Hardy Decl. ¶ 67.

For the second inquiry under Exemption 7(A), the government must show that production of the records at issue "(1) could reasonably be expected to interfere with (2) enforcement proceedings that are (3) pending or reasonably anticipated." *Mapother v. Dep't of Justice*, 3 F.3d 1533, 1540 (D.C. Cir. 1993) (emphasis omitted); *see* 5 U.S.C. § 552(b)(7)(A). "Exemption 7(A) does not require a presently pending 'enforcement proceeding"' "an ongoing . . . investigation" suffices. *Ctr. for Nat'l Security Studies*, 331 F.3d at 926; *see also Citizens for Responsibility & Ethics in Wash. v. U.S. Dep't of Justice*, 746 F.3d 1082, 1098 (D.C. Cir. 2014) ("[A]n ongoing criminal investigation typically triggers Exemption 7(A)."); *Juarez v. Dep't of Justice*, 518 F.3d 54, 59 (D.C. Cir. 2008) ("[S]o long as the investigation continues to gather evidence for a possible future criminal case, and that case would be jeopardized by the premature release of that evidence, Exemption 7(A) applies.").

These requirements are also met here. The FBI is limited in what it can say on the public record regarding the harms that would flow from the release of any portion of the Comey Memos. Although there has been extensive media coverage and speculation, little has been officially confirmed by the FBI, DOJ, or the Special Counsel about the investigation. The FBI

has generally explained, however, that the Comey Memos include information regarding confidential aspects of the Russia investigation, Hardy Decl. ¶ 67, and that disclosure of the Comey Memos and the information contained therein could reasonably be expected to adversely affect the ongoing investigation, as well as any law enforcement proceedings that may ultimately result from this investigation, by revealing the scope and focus of the investigation, and whether particular activities, information, or evidence is or is not of interest in the investigation. *Id.* ¶ 71. The FBI further explains that revealing additional information about the feared harms to the investigation will itself risk harm to the investigation. *Id.* The possible risks to the investigation from disclosure have therefore been further described in the *in camera* and *ex parte* declaration submitted herewith.

The investigators' conclusions about the possible harms are common to many investigations and are sufficient to support application of Exemption 7(A). The courts routinely recognize that Exemption 7(A) protects against the disclosure of information that would reveal the scope and focus of an investigation. *See Maydak v. U.S. Dep't of Justice*, 218 F.3d 760, 762 (D.C. Cir. 2000) ("The principal purpose of Exemption 7(A) is to prevent disclosures which might prematurely reveal the government's cases in court, its evidence and strategies, or the nature, scope, direction, and focus of its investigations, and thereby enable suspects to establish defenses or fraudulent alibis or to destroy or alter evidence."); *Swan v. SEC*, 96 F.3d 498, 500 (D.C. Cir. 1996) (the "records could reveal much about the focus and scope of the [agency's] investigation, and are thus precisely the sort of information exemption 7(A) allows an agency to keep secret"); *Suzhou Yuanda Enter., Co. v. U.S. Customs & Border Prot.,* 404 F. Supp. 2d 9, 14 (D.D.C. 2005) (upholding Exemption 7(A) claim where "disclosure of the information . . . could

inform the public of the evidence sought and scrutinized in this type of investigation"). Thus, the courts have routinely found that a disclosure that would reveal information such as the status of an investigation, the investigators' "main concern," "the material . . . thus far collected, [the investigators'] assessment of that information, and the information that [they] still required" could potentially jeopardize the investigation. *Judicial Watch, Inc. v. U.S. Dep't of Justice*, 306 F. Supp. 2d 58, 75-76 (D.D.C. 2004) (internal quotation marks omitted); *see also Alyeska Pipeline Serv. Co.*, 856 F.2d at 312 (upholding assertion of Exemption 7(A) where disclosure would "prematurely reveal[ ] to the subject of this ongoing investigation the size, scope and direction of this investigation" and "expose the particular types of allegedly illegal activities being investigated"). The courts have recognized that not only would disclosure of such investigative progress and priorities chill witnesses and alert targets, but it would provide targets or witnesses with an opportunity to impede the investigation or formulate their testimony to rebut evidence already gathered. Moreover, the courts have recognized that the government, as here, often cannot provide detailed descriptions of the withheld information, but has upheld the withholdings nonetheless. *See Patino-Restrepo v. Dep't of Justice*, 246 F. Supp. 3d 233, 250 (D.D.C. 2017) (finding the FBI's justification of its withholding pursuant to 7(A) adequate even though it was unable to provide a "description of the information withheld" because a specific description could identify the information that the FBI sought to protect by invoking the exemption).

In sum, because release of the Comey Memos could reasonably be expected to reveal information about, and thus interfere with, the ongoing Russia investigation and any ensuing

enforcement proceedings, the documents are properly exempt from disclosure pursuant to FOIA Exemption 7(A).

B. There Has Been No Official "Prior Disclosure" of the Comey Memos

The government anticipates that plaintiffs will argue that former Director Comey's testimony before Congress, and/or his asserted delivery of one or more memos to a friend, constitute prior disclosure of the contents of the memos, sufficient to compel disclosure here. However, that testimony and the release were made while Mr. Comey was no longer in the employ of the FBI but rather was a private citizen, and does not in any event constitute a disclosure of the exact contents of all of the memos. Mr. Comey's testimony therefore does not constitute "official and documented" disclosure of the memos. Accordingly, the prior disclosure doctrine does not apply here.

The general rule is that, when "information has been 'officially acknowledged,' its disclosure may be compelled even over an agency's otherwise valid exemption claim." *Fitzgibbon v. CIA*, 911 F.2d 755, 765 (D.C. Cir. 1990). The D.C. Circuit applies a three-part test for whether information has been "officially acknowledged": "(1) the information requested must be as specific as the information previously released; (2) the information requested must match the information previously disclosed; and (3) the information requested must already have been made public through an official and documented disclosure." *ACLU v. U.S. Dep't of Def.*, 628 F.3d 612, 620-21 (D.C. Cir. 2011). Notably, when assessing whether the third prong is met, the prior disclosure must be an official government disclosure "the fact that information exists in some form in the public domain does not necessarily mean that official disclosure will not cause harm cognizable under a FOIA exemption." *Wolf v. CIA*, 473 F.3d 370, 378 (D.C. Cir.

2007); *see also Afshar v. U.S. Dep't of State*, 702 F.2d 1125, 1130-31 (D.C. Cir. 1983) (drawing distinction between "[u]nofficial leaks and public surmise" and "official acknowledgment"). Moreover, "[p]rior disclosure of similar information does not suffice; instead, the *specific* information sought by the plaintiff must already be in the public domain by official disclosure." *Wolf*, 473 F.3d at 378. Accordingly, the plaintiff asserting a claim of prior disclosure carries the burden of "pointing to specific information in the public domain that appears to duplicate that being withheld." *Afshar*, 702 F.2d at 1130.

Here, Mr. Comey's testimony or transmittal of the material to others, both of which occurred when he was acting as a private citizen, in no way constitutes "official disclosure" of the contents of the memos. *See* Transcript, at 7 (Comey answering "[n]o" to question of whether "the special counsel's office review[ed] and/or edit[ed] [his] written testimony"). This case is thus similar to the cases involving, *e.g.*, memoirs by former government officials and the Wikileaks documents, in which waiver was not found. *See Afshar*, 702 F.2d at 1133 (concluding that none of the books by former CIA agents and officials is "an official and documented disclosure, as the release of CIA cables would be"); *ACLU v. Dep't of State*, 878 F. Supp. 2d 215, 224 (D.C. Cir. 2012) ("No matter how extensive, the WikiLeaks disclosure is no substitute for an official acknowledgement and the [plaintiff] has not shown that the Executive has officially acknowledged that the specific information at issue was a part of the WikiLeaks disclosure."); *see also Hudson River Sloop Clearwater, Inc. v. Dep't of the Navy*, 891 F.2d 414, 421 (2d Cir. 1989) ("Admiral Carroll's statements cannot effect an official disclosure of information since he is no longer an active naval officer."). The government has not even previously confirmed the existence of any memos, and it does not confirm here that the memo or

memos allegedly provided by Mr. Comey to a friend, even if that occurred, was or were accurate copies of official memos he wrote while FBI Director.

Moreover, the actual contents of the memos themselves, including such critical details as the number of memos and their length, Hardy Decl. ¶ 72, have not been made public. Thus, even taking into account Mr. Comey's testimony, there has been no documented disclosure of the *specific* information at issue here. *See Muslim Advocates v. U.S. Dep't of Justice*, 833 F. Supp. 2d 92, 100 (D.D.C. 2011) (written chapters of an FBI guide did not become part of the public domain when the chapters were only shown to a select group of organizations at FBI headquarters, even though attendees were permitted to view and take notes); *Black v. U.S. Dep't of Justice*, 69 F. Supp. 3d 26, 35 (D.D.C. 2014) (plaintiff failed to meet his burden for invoking the prior disclosure doctrine as to certain recordings used in court where, although the attorneys arguing before the court reference the recordings and present their respective characterizations of the content of the recordings, at no point does the transcript "reflect that any portion of the recordings were played in court or that the actual content of the recordings were otherwise entered into the public record"), *aff'd*, No. 14-5256, 2015 WL 6128830 (D.C. Cir. Oct. 6, 2015). *Cf. Cottone v. Reno*, 193 F.3d 550, 555 (D.C. Cir. 1999) (ordering release of the specific tapes which had been played in open court and received into evidence, where requestor could document those facts, but recognizing that "it will very often be the case that some type of hard copy facsimile will be the only practicable way for a FOIA requester to demonstrate that the specific information he has solicited has indeed circulated into the public domain"). Further discussion of issues relevant to the prior disclosure doctrine is included in the *in camera* and *ex parte* declaration submitted herewith.

In sum, Mr. Comey's testimony does not constitute official acknowledgment of the specific contents of the memos. Accordingly, the prior disclosure doctrine does not apply.

C. Disclosure of the Comey Memos Will Still Interfere with the Russia Investigation, Notwithstanding Mr. Comey's Testimony

Plaintiffs may argue that, even if Mr. Comey's testimony did not constitute an official disclosure, its existence in the public domain negates any harm to the investigation from releasing the memos. However, the FBI considered the disclosures made by Mr. Comey in making the determination that the release of the Comey Memos could serve to compromise the pending investigation, and nonetheless concluded that the release of the Comey Memos would cause harm to the investigative efforts. Hardy Decl. ¶ 71. The Comey Memos themselves have never entered the public domain. Accordingly, despite the former Director's testimony, there is much that is not publicly known about these documents. Although former Director Comey testified that he memorialized certain conversations with the President, the number of records he created is not publicly known. Hardy Decl. ¶ 72. The level of detail contained in the memoranda is not publicly known. Any disclosure of this non-public information could reasonably be expected to reveal the scope and focus of the investigation and thereby harm the investigation. *Id.* ¶¶ 71-72.

Further details regarding the nature of these harms is provided in the *in camera* and *ex parte* declaration. Publicly explaining in any greater detail why the release of the Comey Memos would be detrimental to the pending investigation would itself disclose law enforcement sensitive information that could interfere with the pending investigation. Hardy Decl. ¶ 70. In such cases, the submission of an *in camera*, *ex parte* declaration is proper. *See Campbell*, 682

F.2d at 265. As the government has adequately articulated in that submission, in conjunction with the public declaration, how release of any portion of the Comey Memos could reasonably be expected to impede its ongoing investigation, the government has sufficiently demonstrated that Exemption 7(A) applies to these documents.

III. PORTIONS OF THE RECORDS ARE EXEMPT FROM DISCLOSURE PURSUANT TO EXEMPTION 1

Portions of certain of the records responsive to plaintiffs' requests include classified information that is also exempt from disclosure pursuant to Exemption 1. Hardy Decl. ¶¶ 75, 79. This information has been classified at the "Secret" or "Confidential" level. *Id.* This information is also properly withheld.

Exemption 1 allows an agency to protect records that are: (1) specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy, and (2) are in fact properly classified pursuant to Executive Order. *See* 5 U.S.C. § 552(b)(1). As with the other exemptions, agencies may establish the applicability of Exemption 1 by declaration. *See ACLU v. U.S. Dep't of Def.*, 628 F.3d at 619.

The current operative classification order for the purposes of Exemption 1 is Executive Order No. 13,526, 75 Fed. Reg. 707 (Dec. 29, 2009) [hereinafter "E.O. 13,526"], which sets forth the substantive and procedural criteria that an agency must follow to properly invoke the exemption. Hardy Decl. ¶ 77. E.O. 13,526 provides that, for information to be properly classified: (1) an "original classification authority" must have classified the information; (2) the information must be "owned by, produced by or for, or be under the control of the United States Government;" (3) the information must fall within one or more of protected categories of information listed in section 1.4 of the E.O.; and (4) the original classification authority must

"determine[] that the unauthorized disclosure of the information reasonably could be expected to result in damage to the national security" and be "able to identify or describe the damage." E.O. 13,526, § 1.1(a)(1)-(4). E.O. 13,526 also requires, in relevant part, that information should be classified as "Secret" only if its unauthorized disclosure could reasonably be expected to cause serious damage to the national security, and as "Confidential" only if its unauthorized disclosure could reasonably be expected to cause damage to the national security. E.O. 13,526, §§ 1.2(a)(2)-(3).

Here, Section Chief Hardy has determined that the information for which Exemption 1 protection is sought is currently and properly classified at the Secret or Confidential level pursuant to E.O. 13,526. Hardy Decl. ¶ 81. As an initial matter Section Chief Hardy has established that (1) the information is owned by, was produced by or for, and is under the control of the U.S. Government; (2) it was classified by an original classification authority; and (3) the withheld classified information falls within one or more of the categories described in Section 1.4 of E.O. 13,526, namely § 1.4(c), information pertaining to "intelligence activities (including covert action), intelligence sources or methods, or cryptology," and § 1.4(d), information pertaining to "foreign relations or foreign activities of the United States, including confidential sources." *Id.* ¶ 82.

Section Chief Hardy also confirms that the unauthorized disclosure of the information reasonably could be expected to result in damage to the national security and describes the expected damage to the extent possible on the public record. Hardy Decl. ¶¶ 82, 85-91. Because agencies have "unique insights" into the adverse effects that might result from public disclosure of classified information, the courts must accord "substantial weight" to an agency's affidavits

justifying classification. *Larson v. Dep't of State*, 565 F.3d 857, 864 (D.C. Cir. 2009) (citation omitted); *see also Military Audit Project*, 656 F.2d at 738. As the D.C. Circuit has noted, "in the FOIA context, we have consistently deferred to executive affidavits predicting harm to the national security, and have found it unwise to undertake searching judicial review." *Ctr. for Nat'l Sec. Studies*, 331 F.3d at 927. Thus, the issue for the Court is whether "on the whole record, the [a]gency's judgment objectively survives the test of reasonableness, good faith, specificity and plausibility in this field of foreign intelligence in which [the agency] is expert and has been given by Congress a special role." *Gardels v. CIA*, 689 F.2d 1100, 1105 (D.C. Cir. 1982). Indeed, the D.C. Circuit has instructed that "little proof or explanation is required beyond a plausible assertion that information is properly classified." *Morley v. CIA*, 508 F.3d 1108, 1124 (D.C. Cir. 2007).

Here, the FBI has determined that some of the information at issue is properly classified because it would, if disclosed, reveal otherwise non-public information regarding the FBI's intelligence interests, priorities, activities, and methods. Hardy Decl. ¶ 88. Greater detail regarding the nature of these intelligence interests, priorities, activities and methods are provided in the *ex parte*, *in camera* declaration. *Id.* ¶ 84. As Section Chief Hardy explains on the public record, however, release of this information could reasonably be expected to cause harm to the national security because the use of such activities, sources and methods are valuable only insofar as their use is unknown by the intelligence targets against which they are deployed. *Id.* ¶ 86. Otherwise, the targets of such intelligence techniques would engage in countermeasures to nullify their effectiveness. *Id.* As he further explains,

> [i]ntelligence activities, sources, and methods are valuable only so long as they remain unknown and unsuspected. Once an

> intelligence activity, source, or method or the fact of its use or non-use in a certain situation is discovered, its continued successful use is seriously jeopardized."

Id. "[E]ven seemingly innocuous, indirect references to an intelligence activity, source, or method could have significant adverse effects when juxtaposed with other publicly-available data." *Id.* ¶ 87.

It is rational and plausible to predict that disclosing details concerning the FBI's intelligence activities, sources, and methods would undermine the usefulness of those methods, to the detriment of national security, and thus the Court should sustain the agency's withholding of this information. *See, e.g.*, *Larson*, 565 F.3d at 863 (holding that "[t]he CIA has carried its burden to show that FOIA Exemption 1 applies where the agency "described with reasonably specific detail . . . the importance for continuing intelligence operations of keeping intelligence sources and methods classified and confidential"); *see also Sims*, 471 U.S. at 175.

The FBI has also determined that the other information at issue would, if disclosed, reveal otherwise non-public information about foreign relations or foreign activities of the United States, including confidential sources. Hardy Decl. ¶¶ 89-91. Specifically, the FBI has protected specific discussions and details concerning the United States' foreign relations activities with identified foreign governments or officials, the disclosure of which, in the context of other surrounding information, could reasonably be expected to impair or adversely impact relations with those countries, and thus, cause harm to the national security. *Id.* ¶ 91. The FBI further explains that, for example, the unauthorized disclosure of such information can reasonably be expected to lead to diplomatic or economic retaliation against the United States; the loss of the cooperation and assistance of friendly nations; or the compromise of cooperative

foreign sources, which may jeopardize their safety and curtail the flow of information from these sources. *Id.* ¶ 90. The FBI's assertion of Exemption 1 should be upheld here as well.

III. PORTIONS OF THE RECORDS ARE EXEMPT FROM DISCLOSURE PURSUANT TO EXEMPTION 3

FOIA Exemption 3 protects information that is specifically exempted from public disclosure by a statute that:

> (A)(i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue; or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld; and
>
> (B) if enacted after the date of enactment of the OPEN FOIA Act of 2009, specifically cites to this paragraph.

5 U.S.C. § 552(b)(3). As the Court of Appeals has explained, "'Exemption 3 differs from other FOIA exemptions in that its applicability depends less on the detailed factual contents of specific documents; the sole issue for decision is the existence of a relevant statute and the inclusion of withheld material within the statute's coverage.'" *Fitzgibbon*, 911 F.2d at 761-62. Thus, "[a] specific showing of potential harm to national security . . . is irrelevant to the language of [an Exemption 3 statute]. Congress has already, in enacting the statute, decided that disclosure of [the specified information] is potentially harmful." *Hayden v. Nat'l Sec. Agency*, 608 F.2d 1381, 1390 (D.C. Cir. 1979).

As explained above, the Comey Memos include information that is classified pursuant to E.O. 13526, § 1.4(c), to protect intelligence sources and methods. That same information is also exempt under Exemption 3. Hardy Decl. ¶ 93. Specifically, disclosure of information concerning intelligence sources and methods is prohibited pursuant to the National Security Act of 1947, as amended, which provides that the Director of National Intelligence (DNI) "shall

protect intelligence sources and methods from unauthorized disclosure." 50 U.S.C. § 3024(i)(1). As relevant to the application of Exemption 3, this provision was enacted before the date of enactment of the OPEN FOIA Act of 2009, and on its face, leaves no discretion to agencies about withholding from the public information about intelligence sources and methods. It is therefore "settled" that this statute falls within Exemption 3. *Gardels*, 689 F.2d at 1103 (discussing substantively similar predecessor statute applicable to CIA which provided that "the Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure"); *accord Sims*, 471 U.S. at 167-68, 193; *Fitzgibbon*, 911 F.2d at 761 ("There is thus no doubt that [the predecessor CIA statute] is a proper exemption statute under exemption 3."); *DiBacco v. U.S. Army*, 795 F.3d 178, 183 (D.C. Cir. 2015).

In order to fulfill its obligation of protecting intelligence sources and methods, the DNI is authorized to establish and implement guidelines for the Intelligence Community ("IC") for the classification of information under applicable laws, Executive Orders, or other Presidential Directives, and for access to and dissemination of intelligence. 50 U.S.C. § 3024(i)(1). The FBI is one of the member agencies comprising the IC, and as such must protect intelligence sources and methods. Hardy Decl. ¶ 95. Accordingly, information in the Comey Memos that reveals intelligence sources and methods is prohibited from disclosure pursuant to 50 U.S.C. § 3024(i)(1), *id.* ¶ 96, and thus properly exempt from disclosure under Exemption 3.

IV. PORTIONS OF THE RECORDS ARE EXEMPT FROM DISCLOSURE PURSUANT TO EXEMPTION 7(E)

Exemption 7(E) protects "records or information compiled for law enforcement purposes [when release] 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." 5 U.S.C. § 552(b)(7)(E). This exemption affords categorical protection to techniques and procedures used in law enforcement investigations. *McRae v. U.S. Dep't of Justice*, 869 F. Supp. 2d 151, 168 (D.D.C. 2012); *but see Blackwell v. FBI*, 646 F.3d 37, 42 (D.C. Cir. 2011) (applying, without analysis, "risk of circumvention" standard to law enforcement techniques and procedures). It protects techniques and procedures that are not well-known to the public as well as non-public details about the use of publicly-known techniques and procedures. *Vazquez v. U.S. Dep't of Justice*, 887 F. Supp. 2d 114, 117 (D.D.C. 2012), *aff'd*, No. 13-5197, 2013 WL 6818207 (D.C. Cir. Dec. 18, 2013).

Exemption 7(E) applies to information in the Comey Memos reflecting the FBI's use of particular investigative techniques or procedures in furtherance of the Russian interference investigation. Hardy Decl. ¶ 105. To date, neither the FBI, DOJ, nor Special Counsel has publicly confirmed or denied the use of any particular techniques or procedures in the ongoing investigation. *Id.* Moreover, although defendants do not believe they are required to show a risk of circumvention here, the FBI explains that publicly disclosing the particular techniques and procedures utilized in the investigation could reasonably be expected to risk circumvention of the law because it would arm those under investigation, and others intent on disrupting it, the information necessary to, *inter alia*: develop countermeasures to evade detection; destroy, adulterate, or otherwise compromise evidence; and interfere with witnesses and their testimony. *Id.*

Any further public description of the information protected here would disclose non-public information that is itself exempt under Exemption 7(E) and would trigger harm under

Exemption 7(A) by prematurely revealing the conduct, scope, and direction of the ongoing investigation. Hardy Decl. ¶ 106. Defendants have therefore provided additional reasons for assertion of this exemption in the *in camera* and *ex parte* declaration filed herewith. *Id.*

V. PORTIONS OF THE RECORDS ARE EXEMPT FROM DISCLOSURE PURSUANT TO EXEMPTIONS 6 AND 7(C)

The records at issue contain a small amount of personal information namely, the names of, and some identifying information about: (a) FBI employee(s), (b) relative(s) of the FBI employee(s), (c) individual(s) providing information to the FBI during its investigation of Russian interference in the 2016 Presidential election, and (d) individuals who were merely mentioned in the Comey Memos. Hardy Decl. ¶ 101. This information has properly been withheld pursuant to FOIA Exemptions 6 and 7(C).

Exemption 6 exempts from disclosure information about individuals in "personnel and medical and similar files" when the disclosure of such information "would constitute a clearly unwarranted invasion of personal privacy." 5 U.S.C. § 552(b)(6). Exemption 6 was "intended to cover detailed government records on an individual which can be identified as applying to that individual." *U.S. Dep't of State v. Wash. Post Co*., 456 U.S. 595, 602 (1982). It, therefore, protects personal information contained in any government file so long as that information "applies to a particular individual." *Id.*; *see also N.Y. Times Co. v. NASA*, 920 F.2d 1002, 1006 (D.C. Cir. 1990) (en banc). Exemption 6 does not merely apply to files "about an individual," but applies more broadly to "bits of personal information, such as names and addresses," contained in otherwise releasable documents. *Judicial Watch, Inc. v. FDA*, 449 F.3d 141, 152 (D.C. Cir. 2006). Exemption 6 requires an agency to balance the individual's right to privacy against the public's interest in disclosure. *See U.S. Dep't of Air Force v. Rose*, 425 U.S. 352,

372 (1976). However, in general, "the only relevant 'public interest in disclosure' to be weighed in this balance is the extent to which disclosure would serve the 'core purpose of the FOIA,' which is 'contribut[ing] significantly to the public understanding *of the operations or activities of the government*.'" *U.S. Dep't of Defense v. FLRA*, 510 U.S. 487, 495 (1994) (quoting *U.S. Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749, 775 (1989)) (emphasis and alteration in original).

Exemption 7(C) protects from disclosure "records or information compiled for law enforcement purposes" to the extent that the production of such law enforcement records or information "could reasonably be expected to constitute an unwarranted invasion of personal privacy." 5 U.S.C. § 552(b)(7)(C). In applying Exemption 7(C), the Court must "balance the privacy interests that would be compromised by disclosure against the public interest in release of the requested information." *Davis v. Dep't of Justice*, 968 F.2d 1276, 1281 (D.C. Cir. 1992). Because Exemption 7(C) applies only to law enforcement documents, however, and because it protects documents that "could reasonably be expected to constitute an unwarranted invasion of personal privacy," rather than those that "would" constitute a "clearly unwarranted" invasion, courts have required a lesser showing under Exemption 7(C) than under Exemption 6. *Nat'l Archives & Records Admin. v. Favish*, 541 U.S. 157, 166 (2004). As with Exemption 6, the public interest "must be assessed in light of FOIA's central purpose," which is "to open agency action to the light of public scrutiny." *Nation Magazine, Wash. Bureau v. U.S. Customs Serv*., 71 F.3d 885, 894 (D.C. Cir. 1995) (quotation marks and citation omitted). However, in general, this purpose "is not fostered by disclosure about private individuals that is accumulated in various government files but that reveals little or nothing about an agency's conduct." *Id.*

The personal information at issue, the names of the FBI employee(s) and private individuals, falls within the scope of both of these exemptions.[4] Hardy Decl. ¶¶ 101-103. The FBI concluded that all of these individuals maintain substantial privacy interests with respect to being associated with this investigation. *Id.* ¶ 102. The FBI considers that its employees whether Special Agents or Professional Staff enjoy substantial privacy protections by virtue of their FBI employment because, whether they are involved in investigating cases or providing other types of services and support, their employment can subject them to harassment, as well as unnecessary, unofficial questioning as to the conduct of agency business. *Id.* Moreover, relatives of such employees, like anyone merely mentioned in an FBI record, maintain similarly high privacy interests. *Id.* The individual providing information to the FBI in its investigation also has substantial privacy interests. *Id.* It is well settled that third parties "who may be mentioned in investigatory files" have a presumptive privacy interest in having their names and other personal information withheld from public disclosure. *Nation Magazine, Wash. Bureau*, 71 F.3d at 894; *Bast v. U.S. Dep't of Justice*, 665 F.2d 1251, 1254-55 (D.C. Cir. 1981). In particular, the individuals whose information was withheld maintain a strong privacy interest in not being identified in connection with a high-profile investigation. Hardy Decl. ¶ 102; *see Reporters Comm. For Freedom of Press*, 489 U.S. at 763-66. On the other hand, the public interest in knowing the names of individuals mentioned in law enforcement records, as a general matter, is nil. *See Blanton v. Dep't of Justice*, 63 F. Supp. 2d 35, 45 (D.D.C. 1999) ("The privacy interests of individual parties mentioned in law enforcement files are 'substantial' while

[4] The FBI is not seeking to protect any information regarding former Director Comey's under these exemptions. Hardy Decl. ¶ 101.

'[t]he public interest in disclosure [of third party identities] is not just less substantial, it is unsubstantial."' (quoting *Safecard Servs., Inc.*, 926 F.2d at 1205, alterations in original)); *Safecard Servs*, 926 F.2d at 1206 ("[T]here is no reason to believe that the incremental public interest in such information would ever be significant."). There is no reason to believe here that disclosure of the identities of the individuals mentioned in the Comey Memos would shed any light on government conduct, Hardy Decl. ¶ 103, and therefore the balancing test weighs clearly in favor of withholding. This personal information is thus properly exempt from disclosure pursuant to Exemption 6 and 7(C).

CONCLUSION

For the reasons stated above, defendants' motion for partial summary judgment should be granted.

Dated: October 13, 2017

Respectfully submitted,

CHAD A. READLER
Acting Assistant Attorney General
Civil Division

MARCIA BERMAN
Assistant Director, Civil Division

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Counsel for Defendant

Weinsheimer, Bradley (NSD)

From:	Weinsheimer, Bradley (NSD)
Sent:	Thursday, March 1, 2018 4:45 PM
To:	Herbert, Jenelle R. (OLA); Colborn, Paul P (OLC); Evans, Stuart (NSD)
Cc:	Johnson, Joanne E. (OLA); Lasseter, David F. (OLA); Shapiro, Elizabeth (CIV)
Subject:	RE: Meeting with OLC
Attachments:	Leahy.pdf; Goodlatte FISC draft response (v4).docx

Attached is the latest draft to the Goodlatte letter. Thanks, Brad.

From: Herbert, Jenelle R. (OLA)
Sent: Thursday, March 1, 2018 1:34 PM
To: Colborn, Paul P (OLC) <(b) (6) per OLC>; Evans, Stuart (NSD) <stevans@jmd.usdoj.gov>; Weinsheimer, Bradley (NSD) <braweinsheimer@jmd.usdoj.gov>
Cc: Johnson, Joanne E. (OLA) <jojohnson@jmd.usdoj.gov>; Lasseter, David F. (OLA) <dlasseter@jmd.usdoj.gov>
Subject: FW: Meeting with OLC

Letters attached.

Best,

Jenelle

Begin forwarded message:

> **From:** jojohnson@jmd.usdoj.gov
> **Date:** March 1, 2018 at 1:22:14 PM EST
> **To:** Paul P Colborn (b) (6) per OLC, Stuart Evans <stevans@jmd.usdoj.gov>, Bradley Weinsheimer <braweinsheimer@jmd.usdoj.gov>, David Lasseter <dlasseter@jmd.usdoj.gov>
> **Subject: Meeting with OLC**
>
> David asked me to set up meeting with Paul, NSD and OLA to discuss the recent FISC letters. Does 4:00 or 4:30 work on schedules? Will forward letters.
>
> Thank you.
>
> Joanne Johnson
> Attorney-Advisor
> Office of Legislative Affairs
> US Department of Justice
> 202-305-8313

Colborn, Paul P (OLC)

From:	Colborn, Paul P (OLC)
Sent:	Monday, March 5, 2018 2:36 PM
To:	Johnson, Joanne E. (OLA); Lasseter, David F. (OLA); Shapiro, Elizabeth (CIV); Weinsheimer, Bradley (NSD); Evans, Stuart (NSD)
Subject:	RE: Canceled: FISC letter discussion with OLC, NSD, OLA
Attachments:	Goodlatte FISC draft response (v4) + olc.docx

Here are a few minor editing suggestions for the letter to HJC. Happy to discuss them when we meet.

-----Original Message-----
From: Johnson, Joanne E. (OLA)
Sent: Monday, March 05, 2018 1:50 PM
To: Colborn, Paul P (OLC) <(b) (6) per OLC Lasseter, David F. (OLA) <dlasseter@jmd.usdoj.gov>; Shapiro, Elizabeth (CIV) <EShapiro@CIV.USDOJ.GOV>; Weinsheimer, Bradley (NSD) <braweinsheimer@jmd.usdoj.gov>; Evans, Stuart (NSD) <stevans@jmd.usdoj.gov>
Subject: RE: Canceled: FISC letter discussion with OLC, NSD, OLA

I have not heard back from everyone - but will go ahead and schedule for 3:30 (assuming silence may mean it works). Will send out invite. Thanks, Joanne

-----Original Message-----
From: Colborn, Paul P (OLC)
Sent: Monday, March 5, 2018 1:44 PM
To: Lasseter, David F. (OLA) <dlasseter@jmd.usdoj.gov>; Johnson, Joanne E. (OLA) <jojohnson@jmd.usdoj.gov>; Shapiro, Elizabeth (CIV) <EShapiro@CIV.USDOJ.GOV>; Weinsheimer, Bradley (NSD) <braweinsheimer@jmd.usdoj.gov>; Evans, Stuart (NSD) <stevans@jmd.usdoj.gov>
Subject: RE: Canceled: FISC letter discussion with OLC, NSD, OLA

Are we on for 3:30? Still in NSD conference room?

-----Original Message-----
From: Lasseter, David F. (OLA)
Sent: Monday, March 05, 2018 9:12 AM
To: Johnson, Joanne E. (OLA) <jojohnson@jmd.usdoj.gov>; Colborn, Paul P (OLC) (b) (6) per OLC Shapiro, Elizabeth (CIV) <EShapiro@CIV.USDOJ.GOV>; Weinsheimer, Bradley (NSD) <braweinsheimer@jmd.usdoj.gov>; Evans, Stuart (NSD) <stevans@jmd.usdoj.gov>
Subject: RE: Canceled: FISC letter discussion with OLC, NSD, OLA

3:30 works for me

-----Original Message-----
From: Johnson, Joanne E. (OLA)
Sent: Monday, March 5, 2018 9:03 AM
To: Colborn, Paul P (OLC) <[redacted]>; Shapiro, Elizabeth (CIV) <EShapiro@CIV.USDOJ.GOV>; Weinsheimer, Bradley (NSD) <braweinsheimer@jmd.usdoj.gov>; Evans, Stuart (NSD) <stevans@jmd.usdoj.gov>; Lasseter, David F. (OLA) <dlasseter@jmd.usdoj.gov>
Subject: Re: Canceled: FISC letter discussion with OLC, NSD, OLA

Does 3:30 or 4:00 today work for everyone?

Joanne Johnson
Attorney-Advisor
Office of Legislative Affairs
US Department of Justice
202-305-8313

> On Mar 1, 2018, at 5:17 PM, Johnson, Joanne E. (OLA) <jojohnson@jmd.usdoj.gov> wrote:
>
> We need to cancel and reschedule for Monday. Please let us know
> available times. Thank you
>
> Meeting to discuss FISC letters in NSD's back conference room. (I
> have included Betsy, as Brad indicated that he also spoke to her about
> [redacted]). Thank you, Joanne x5-8313 <meeting.ics>

Cutrona, Danielle (OAG)

From:	Cutrona, Danielle (OAG)
Sent:	Tuesday, March 20, 2018 7:46 PM
To:	Gannon, Curtis E. (OLC)
Cc:	Whitaker, Matthew (OAG); Flores, Sarah Isgur (OPA); Barnett, Gary E. (OAG); Boyd, Stephen E. (OLA)
Subject:	Assistance
Attachments:	030618_Special-Counsel-Letter.pdf; DOJ Letter to BG and TG Re Second Special 3.20.18.docx

Curtis,
If you have time tonight or tomorrow, can you please take a look at the attached draft response letter? I'm attaching the incoming letter for convenience. Please let us know if you have any comments or questions.
Thanks in advance,
Danielle

Congress of the United States
House of Representatives
Washington, DC 20515

March 06, 2018

Dear Attorney General Sessions and Deputy Attorney General Rosenstein:

Matters have arisen – both recently and otherwise – which necessitate the appointment of a Special Counsel. We do not make this observation and attendant request lightly. We have tremendous respect for the women and men of federal law enforcement and federal prosecution. In the vast majority of fact patterns, the Department of Justice, the career prosecutors and law enforcement professionals who serve there, and the U.S. Attorneys' Offices throughout the country are fully capable of investigating, evaluating, charging where appropriate, and prosecuting matters for which there is federal jurisdiction.

Nevertheless, there are instances in which an actual or potential conflict of interest exists or appears to exist, or there are matters in which the public good would be furthered, and an independent Special Counsel is warranted as the relevant Federal regulations provide.

We believe that, in the case of certain decisions made and not made by the Department of Justice and FBI in 2016 and 2017, both an actual conflict of interest exists and separately, but equally significantly, the public interest requires the appointment of a Special Counsel.

With respect to potential and actual conflicts of interest, decisions made and not made by both former and current Department of Justice and FBI officials have led to legitimate questions and concerns from the people whom we all serve. There is evidence of bias, trending toward animus, among those charged with investigating serious cases. There is evidence political opposition research was used in court filings. There is evidence this political opposition research was neither vetted before it was used nor fully revealed to the relevant tribunal. Questions have arisen with the FISA process and these questions and concerns threaten to impugn both public and congressional confidence in significant counterintelligence program processes and those charged with overseeing and implementing these counterintelligence processes.

Because the decisions of both former and current Department of Justice and FBI officials are at issue, we do not believe the Department of Justice is capable of investigating and evaluating these fact patterns in a fashion likely to garner public confidence. In addition, while we have confidence in the Inspector General for the Department of Justice, the DOJ IG does not have the authority to investigate other governmental entities or former employees of the Department, the Bureau, or other agencies.

Some have been reluctant to call for the appointment of a Special Counsel because such an appointment should be reserved for those unusual cases where existing investigative and prosecutorial entities cannot adequately discharge those duties. We believe this is just such a case.

Accordingly, we request that you appoint a Special Counsel to review decisions made and not made by the Department of Justice and the FBI in 2016 and 2017, including but not limited to evidence of bias by any employee or agent of the DOJ, FBI, or other agencies involved in the investigation; the decisions to charge or not charge and whether those decisions were made consistent with the applicable facts, the applicable law, and traditional investigative and prosecutorial policies and procedures; and whether the FISA process employed in the fall of 2016 was appropriate and devoid of extraneous influence.

Thank you for your prompt attention to this important request.

Sincerely,

Bob Goodlatte
Chairman, House Judiciary Committee

Trey Gowdy
Chairman, House Oversight and Government Reform Committee

cc: Ranking Member Jerrold Nadler
Ranking Member Elijah Cummings

Colborn, Paul P (OLC)

From:	Colborn, Paul P (OLC)
Sent:	Friday, April 13, 2018 9:42 AM
To:	Schools, Scott (ODAG)
Subject:	FW: Draft letter to Meadows/Jordan
Attachments:	2018-04-12 Meadows Jordan letter + olc.docx

Wanted to be sure you saw this, Scott, since tracking is showing it as unopened.

From: Colborn, Paul P (OLC)
Sent: Thursday, April 12, 2018 12:12 PM
To: Schools, Scott (ODAG) <sschools@jmd.usdoj.gov>
Cc: Engel, Steven A. (OLC) [redacted] >; Gannon, Curtis E. (OLC) [redacted]
Subject: RE: Draft letter to Meadows/Jordan

Scott, thanks for giving us the opportunity to review your draft. It's very good. Our editing suggestions are attached.

Paul

From: Schools, Scott (ODAG)
Sent: Thursday, April 12, 2018 12:07 AM
To: Colborn, Paul P (OLC) [redacted]
Subject: Draft letter to Meadows/Jordan

Paul:

I would value your input on this draft. Incoming also attached.

Scott

Cutrona, Danielle (OAG)

From:	Cutrona, Danielle (OAG)
Sent:	Tuesday, April 17, 2018 12:24 PM
To:	Engel, Steven A. (OLC)
Cc:	Whitaker, Matthew (OAG)
Subject:	Draft
Attachments:	draft.docx

Steve,
Attached is a draft based on the materials OLC put together at Matt's request. Please review and let us know if you have any comments/changes or would like to discuss.
Thanks,
Danielle

Schools, Scott (ODAG)

From:	Schools, Scott (ODAG)
Sent:	Tuesday, April 17, 2018 6:57 PM
To:	Rosenstein, Rod (ODAG); Boyd, Stephen E. (OLA); Engel, Steven A. (OLC); O'Callaghan, Edward C. (ODAG)
Cc:	Lasseter, David F. (OLA); Terwilliger, Zachary (ODAG); Medina, Amelia (ODAG); Bolitho, Zachary (ODAG); Gauhar, Tashina (ODAG)
Subject:	RE: Revised draft letter for Meadows & Jordan

Their request is for the August 2 memo, and I recommend (b) (5) I had drafted a letter late last week that they are editing and I expect to have it soon.

From: Rosenstein, Rod (ODAG)
Sent: Tuesday, April 17, 2018 6:54 PM
To: Boyd, Stephen E. (OLA) <seboyd@jmd.usdoj.gov>; Engel, Steven A. (OLC) (b) (6) per OLC ; Schools, Scott (ODAG) <sschools@jmd.usdoj.gov>; O'Callaghan, Edward C. (ODAG) <ecocallaghan@jmd.usdoj.gov>
Cc: Lasseter, David F. (OLA) <dlasseter@jmd.usdoj.gov>; Terwilliger, Zachary (ODAG) <zterwilliger@jmd.usdoj.gov>; Medina, Amelia (ODAG) <ammedina@jmd.usdoj.gov>; Bolitho, Zachary (ODAG) <zbolitho@jmd.usdoj.gov>; Gauhar, Tashina (ODAG) <tagauhar@jmd.usdoj.gov>
Subject: Revised draft letter for Meadows & Jordan

Here is a revised draft. We should send this after (b) (5)

P.S. New subject thread. Enough of the impeachment meme for this week.

O'Callaghan, Edward C. (ODAG)

From:	O'Callaghan, Edward C. (ODAG)
Sent:	Tuesday, April 17, 2018 9:18 PM
To:	Rosenstein, Rod (ODAG); Schools, Scott (ODAG)
Cc:	Boyd, Stephen E. (OLA); Engel, Steven A. (OLC); Lasseter, David F. (OLA); Terwilliger, Zachary (ODAG); Medina, Amelia (ODAG); Bolitho, Zachary (ODAG); Gauhar, Tashina (ODAG)
Subject:	RE: Revised draft letter for Meadows & Jordan
Attachments:	2018.04.18.Jordan-Meadows eoc.docx; 2018.04.18.Jordan-Meadows eoc.pdf

A couple of suggestions to general letter in track changes.

Edward C. O'Callaghan
202-514-2105

From: Rosenstein, Rod (ODAG)
Sent: Tuesday, April 17, 2018 8:59 PM
To: Schools, Scott (ODAG) <sschools@jmd.usdoj.gov>
Cc: Boyd, Stephen E. (OLA) <seboyd@jmd.usdoj.gov>; Engel, Steven A. (OLC) <(b) (6) per OLC>; O'Callaghan, Edward C. (ODAG) <ecocallaghan@jmd.usdoj.gov>; Lasseter, David F. (OLA) <dlasseter@jmd.usdoj.gov>; Terwilliger, Zachary (ODAG) <zterwilliger@jmd.usdoj.gov>; Medina, Amelia (ODAG) <ammedina@jmd.usdoj.gov>; Bolitho, Zachary (ODAG) <zbolitho@jmd.usdoj.gov>; Gauhar, Tashina (ODAG) <tagauhar@jmd.usdoj.gov>
Subject: Re: Revised draft letter for Meadows & Jordan

I want to send a general letter along the lines of the earlier draft.

The response to the SC request (b) (5)

On Apr 17, 2018, at 8:34 PM, Schools, Scott (ODAG) <sschools@jmd.usdoj.gov> wrote:

(b) (5) . It is very long, Comments welcome.

Scott

From: Rosenstein, Rod (ODAG)
Sent: Tuesday, April 17, 2018 6:54 PM
To: Boyd, Stephen E. (OLA) <seboyd@jmd.usdoj.gov>; Engel, Steven A. (OLC) (b) (6) per OLC >; Schools, Scott (ODAG) <sschools@jmd.usdoj.gov>; O'Callaghan, Edward C. (ODAG) <ecocallaghan@jmd.usdoj.gov>
Cc: Lasseter, David F. (OLA) <dlasseter@jmd.usdoj.gov>; Terwilliger, Zachary (ODAG) <zterwilliger@jmd.usdoj.gov>; Medina, Amelia (ODAG) <ammedina@jmd.usdoj.gov>; Bolitho, Zachary (ODAG) <zbolitho@jmd.usdoj.gov>; Gauhar, Tashina (ODAG)

<tagauhar@jmd.usdoj.gov>
Subject: Revised draft letter for Meadows & Jordan

Duplicative Material

Bolitho, Zachary (ODAG)

From:	Bolitho, Zachary (ODAG)
Sent:	Tuesday, April 17, 2018 9:20 PM
To:	Rosenstein, Rod (ODAG)
Cc:	Boyd, Stephen E. (OLA); Schools, Scott (ODAG); Engel, Steven A. (OLC); O'Callaghan, Edward C. (ODAG); Lasseter, David F. (OLA); Terwilliger, Zachary (ODAG); Medina, Amelia (ODAG); Gauhar, Tashina (ODAG)
Subject:	Re: Revised draft letter for Meadows & Jordan

Sir,

Just a thought, but it might be worth (b) (5) [redacted]

Thanks,
Zac

On Apr 17, 2018, at 8:59 PM, Rosenstein, Rod (ODAG) <rrosenstein@jmd.usdoj.gov> wrote:

> What he said.
>
> On Apr 17, 2018, at 8:53 PM, Boyd, Stephen E. (OLA) <seboyd@jmd.usdoj.gov> wrote:
>
> > I'm fine with this approach, or, if it'd be helpful, (b) (5) [redacted] I'm ok with either.
> >
> > (b) (5) [redacted]
> >
> > SB
> >
> > Sent from my iPhone
> >
> > On Apr 17, 2018, at 8:34 PM, Schools, Scott (ODAG) <sschools@jmd.usdoj.gov> wrote:

Duplicative Material

Rosenstein, Rod (ODAG)

From:	Rosenstein, Rod (ODAG)
Sent:	Wednesday, April 18, 2018 7:41 AM
To:	Schools, Scott (ODAG)
Cc:	Boyd, Stephen E. (OLA); Engel, Steven A. (OLC); O'Callaghan, Edward C. (ODAG); Lasseter, David F. (OLA); Terwilliger, Zachary (ODAG); Medina, Amelia (ODAG); Bolitho, Zachary (ODAG); Gauhar, Tashina (ODAG)
Subject:	Re: Revised draft letter for Meadows & Jordan

It might be better to (b) (5)

On Apr 17, 2018, at 8:34 PM, Schools, Scott (ODAG) <sschools@jmd.usdoj.gov> wrote:

Duplicative Material