In these types of cases, courts have frequently found the asserted public interest too attenuated to overcome the clear privacy interest an individual has in his name and home address. Nevertheless, several lower courts have ordered the disclosure of such information in certain contexts. Some of these courts have found little or no privacy interest in the names and addresses at issue.[243] Other courts have ordered the release of such personal information on the rationale that the names and addresses themselves would reveal (or lead to other information that would reveal) how an agency conducted some aspect of its business.[244]

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[242](...continued)
elections)).

[243] See Nat'l Ass'n of Home Builders v. Norton, 309 F.3d 26, 36 (D.C. Cir. 2002) (finding privacy interest "relatively weak," and determining that public interest in learning about agency's use of owl data is served by release of lot numbers of parcels of land where owls have been spotted, even while acknowledging that the identities of landowners could be determined by use of this information); Avondale Indus. v. NLRB, 90 F.3d 955, 961 (5th Cir. 1996) (finding that names and addresses of voters in union election already were disclosed in voluminous public record); People for the Am. Way Found. v. Nat'l Park Serv., 503 F. Supp. 2d 284, 306 (D.D.C. 2007) (ordering release of names of those who voluntarily submitted comments regarding informational video shown at Lincoln Memorial because "the public interest in knowing who may be exerting influence on National Park Service officials sufficient to convince them to change the video outweighs any privacy interest in one's name."); Baltimore Sun v. U.S. Marshals Serv., 131 F. Supp. 2d 725, 729 (D. Md. 2001) (declaring that purchasers of property previously seized by the government "voluntarily choose to participate in . . . a wholly legal commercial transaction" and "have little to fear in the way of 'harassment, annoyance, or embarrassment'") (Exemption 7(C)); Alliance for the Wild Rockies v. Dep't of the Interior, 53 F. Supp. 2d 32, 36-37 (D.D.C. 1999) (concluding that commenters to proposed rulemaking could have little expectation of privacy when rulemaking notice stated that complete file would be publicly available); Wash. Post Co. v. USDA, 943 F. Supp. 31, 34-36 (D.D.C. Oct. 18, 1996) (finding minimal privacy interest in home addresses at which farmers receiving subsidies under cotton price support program operate their businesses), appeal dismissed voluntarily, No. 96-5373 (D.C. Cir. May 19, 1997); Ackerson & Bishop Chartered v. USDA, No. 92-1068, slip op. at 1 (D.D.C. July 15, 1992) (finding no privacy interest in names of commercial mushroom growers operating under own names).

[244] See Baltimore Sun, 131 F. Supp. 2d at 729-30 (names and addresses of purchasers of property seized by government found to allow public to assess agencies' exercise of their power to seize property and their duty to dispose of such property) (Exemption 7(C)); Or. Natural Desert Ass'n v. U.S. Dep't of Interior, 24 F. Supp. 2d 1088, 1093 (D. Or. 1998) (names of cattle owners who violated federal grazing laws found to reveal "how government is enforcing and punishing violations of land management laws") (Exemption 7(C)); Maples v. USDA, No. 97-5663, slip op. at 14 (E.D. Cal. Jan. 13, 1998) (names and addresses of permit holders for use of federal lands "would provide the public with an understanding of how the permit process works"); Urbigkit v. U.S. Dep't of the Interior, No. 93-CV-0232-J, slip op. at 13 (D. Wyo. May 31, 1994) (list of citizens who reported wolf sightings found to show agency activities "with respect to the duties imposed upon it by the Endangered Species Act"); Ray v. DOJ, 852 F. Supp. 1558, 1564-65 (S.D. Fla. 1994) (names and addresses of interdicted Haitians might reveal "information concerning our government's conduct during the (continued...)

For example, the Court of Appeals for the Eleventh Circuit concluded in News-Press v. DHS that disclosure of the addresses of buildings that received disaster assistance from FEMA should be released, but that the names of aid recipients were properly withheld.[245] The court recognized that the public had a legitimate interest in knowing whether FEMA appropriately handled billions of dollars in disaster relief claims, especially in light of evidence submitted by the requesters of wasteful or fraudulent spending of disaster assistance funds.[246] The court went on to find that the addresses of those structures allegedly damaged would shed light directly on the allegations of impropriety, as those addresses that received disaster relief which were located outside the path of the natural disasters "plainly would raise red flags" regarding FEMA's effectiveness in properly distributing disaster assistance.[247]

Against this "powerful public interest,"[248] the court weighed the privacy interests of aid recipients in the nondisclosure of their home addresses. The Court identified a number of privacy interests threatened by disclosure of the home addresses, including the fact that disclosure of the addresses would allow the public to "link certain information already disclosed by FEMA to particular individuals."[249] However, the court found that these privacy interests were not substantial enough to warrant protection under Exemption 6.[250] In summary, the court stated that "[q]uite simply, the disclosure of the addresses serves a powerful public interest, and the privacy interests extant cannot be said even to rival this public interest, let alone exceed it, so that disclosure would constitute a 'clearly unwarranted' invasion of personal privacy."[251] The court remarked that in this case it did "not find the balancing calculus to be particularly hard."[252]

By contrast, the court held that disclosure of the names of the aid recipients would constitute a "clearly unwarranted invasion of personal privacy."[253] Whereas the addresses would shed light directly on whether FEMA improperly disbursed funds, the names of those

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[244](...continued)
interdiction process"); Thott v. U.S. Dep't of the Interior, No. 93-0177-B, slip op. at 5-6 (D. Me. Apr. 14, 1994) (list of individuals who sold land to Fish and Wildlife Service found to inform the public "about the methods used by FWS in acquiring property throughout the United States").

[245] 489 F.3d 1173, 1205-06 (11th Cir. 2007).

[246] Id. at 1192.

[247] Id. at 1192-96.

[248] Id. at 1196.

[249] Id. at 1199.

[250] Id. at 1200.

[251] Id. at 1205.

[252] Id.

[253] Id.

aid recipients "'would provide no further insight into the operations of FEMA.'"[254] As such, the court found that the public's interest in the aid recipient names was "outweighed by the increased privacy risks" posed by disclosure of those names.[255]

In certain circumstances, an individual may have an interest in having his or her personal information disclosed rather than withheld. In Lepelletier v. FDIC, the D.C. Circuit remanded the case back to the district court to determine whether some of the names of individual depositors with unclaimed funds at banks for which the FDIC was then the receiver should be released to a professional money finder.[256] Introducing a new element into the balancing test for this particular type of information, the D.C. Circuit held that the standard test "is inapposite here, i.e., where the individuals whom the government seeks to protect have a clear interest in the release of the requested information."[257] As guidance to the lower court charged with addressing this novel set of circumstances, the D.C. Circuit ordered, first, that "release of names associated with unclaimed deposits should not be matched with the amount owed to that individual" and, second, that "on remand, the District Court must determine the dollar amount below which an individual's privacy interest should be deemed to outweigh his or her interest in discovering his or her money, such that the names of depositors with lesser amounts may be redacted."[258]

Partial Disclosures

In some contexts, deletion of the identities of the individuals mentioned in a document, with release of the remaining material, provides protection for personal privacy while at the same time allows for the disclosure of information regarding government activities. For example, in Department of the Air Force v. Rose, the Supreme Court ordered the release of case summaries of disciplinary proceedings, provided that personal identifying information was deleted.[259] Similarly, courts have ordered the disclosure of computerized lists of numbers and types of drugs routinely ordered by the congressional pharmacy after deletion of any item

[254] Id. at 1205 (quoting Sun-Sentinel Co. v. DHS, 431 F. Supp. 2d 1258, 1271 (S.D. Fla. 2006)).

[255] Id.

[256] 164 F.3d 37, 48-49 (D.C. Cir. 1999).

[257] Id. at 48.

[258] Id.

[259] 425 U.S. 352, 380-81 (1976); see Ripskis v. HUD, 746 F.2d 1, 4 (D.C. Cir. 1984)(noting that agency voluntarily released outstanding performance rating forms with identifying information deleted); Aldridge v. U.S. Comm'r of Internal Revenue, No. 7:00-CV-131, 2001 WL 196965, at *3 (N.D. Tex. Feb. 23, 2001) (determining that privacy interests of employees recommended for discipline could be protected by redacting their names); Hecht v. USAID, No. 95-263, 1996 WL 33502232, at *12 (D. Del. Dec. 18, 1996) (finding that privacy interests of government contractor's employees could be protected by withholding their names and addresses from biographical data sheets); Church of Scientology v. IRS, 816 F. Supp. 1138, 1160 (W.D. Tex. 1993) (ordering agency to protect employees' privacy interests in their handwriting by typing handwritten records at requester's expense).

identifiable to a specific individual,[260] and have ordered the disclosure of documents concerning disciplined IRS employees, provided that all names and other identifying information were deleted.[261] Similarly, documents voluntarily submitted to the government by private citizens have been held releasable, as long as redactions are made of personally identifying information.[262] For example, in Carter, Fullerton & Hayes LLC v. FTC, the FTC released the text of all responsive documents located in its consumer complaint database except for personal information pertaining to individual consumers.[263]

Nevertheless, in some situations the deletion of personal identifying information may not be adequate to provide necessary privacy protection.[264] As such, in Rose, the Supreme Court specifically held that if it were determined on remand that the deletions of personal references were not sufficient to safeguard privacy, then the summaries of disciplinary hearings should not be released.[265]

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[260] See Arieff v. U.S. Dep't of the Navy, 712 F.2d 1462, 1468-69 (D.C. Cir. 1983); see also Dayton Newspapers, Inc. v. Dep't of the Air Force, 35 F. Supp. 2d 1033, 1035 (S.D. Ohio 1998) (ordering release of militarywide medical tort-claims database with "claimants' names, social security numbers, home addresses, home/work telephone numbers and places of employment" redacted); Chi. Tribune Co. v. HHS, No. 95 C 3917, 1997 WL 1137641, at *18-19 (N.D. Ill. Feb. 26, 1997) (magistrate's recommendation) (ordering release of patient data forms that identify patients only by nine-digit encoded "Study Numbers"), adopted, (N.D. Ill. Mar. 28, 1997); Minntech Corp. v. HHS, No. 92-2720, slip op. at 5 (D.D.C. Nov. 17, 1993) (ordering release of FDA studies concerning mortality rates and use of kidney dialyzers with names, addresses, places of birth, and last four digits of social security numbers deleted); Frets v. Dep't of Transp., No. 88-404-W-9, 1989 WL 222608, at *5 (W.D. Mo. Dec. 14, 1989) (ordering disclosure of drug reports of air traffic controllers with identities deleted); Citizens for Envtl. Quality v. USDA, 602 F. Supp. 534, 538-39 (D.D.C. 1984) (ordering disclosure of health test results because identity of single agency employee tested could not, after deletion of his name, be ascertained from any information known outside appropriate part of agency (citing Rose, 425 U.S. at 380 n.19 (dicta))).

[261] See Chamberlain v. Kurtz, 589 F.2d 827, 841-42 (5th Cir. 1979); cf. Senate of P.R. v. DOJ, No. 84-1829, 1993 WL 364696, at *10-11 (D.D.C. Aug. 24, 1993) (ordering release of information concerning cooperating inmate after redaction of identifying details).

[262] See Billington v. DOJ, 258 F. App'x 348, 349 (D.C. Cir. 2007).

[263] 520 F. Supp. 2d 134, 148 (D.D.C. 2007).

[264] See, e.g., Harry v. Dep't of the Army, No. 92-1654, slip op. at 9 (D.D.C. Sept. 13, 1993) (concluding that redaction of ROTC personnel records was not possible because "intimate character" of ROTC corps at university would make records recognizable to requester who was in charge of university's ROTC program); see also Alirez v. NLRB, 676 F.2d 423, 428 (10th Cir. 1982) (finding that deletion of names and other identifying data pertaining to small group of co-workers was simply inadequate to protect them from embarrassment or reprisals because requester could still possibly identify individuals) (Exemption 7(C)).

[265] 425 U.S. at 381; see also, e.g., ACLU v. DOD, 389 F. Supp. 2d 547, 572 (S.D.N.Y. 2005) (continued...)

In another example, to protect those persons who were the subjects of disciplinary actions that were later dismissed, Court of Appeals for the District of Columbia Circuit upheld the nondisclosure of public information contained in such disciplinary files when the redaction of personal information would not be adequate to protect the privacy of the subjects because the requester could easily obtain and compare unredacted copies of the documents from public sources.[266] Similarly, when the information in question concerns a small group of individuals who are known to each other and easily identifiable from the details contained in the information, redaction might not adequately protect privacy interests.[267]

Furthermore, when requested information is "unique and specific" to the subjects of a

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[265](...continued)
(declaring that for certain photographic and video images, "where the context compelled the conclusion that individual recognition could not be prevented without redaction so extensive as to render the images meaningless, [the court orders] those images not to be produced").

[266] Carter v. U.S. Dep't of Commerce, 830 F.2d 388, 391 (D.C. Cir. 1987); see also, e.g., Marzen v. HHS, 825 F.2d 1148, 1152 (7th Cir. 1987) (concluding that redaction of "identifying characteristics" would not protect the privacy of a deceased infant's family because others could ascertain the identity and "would learn the intimate details connected with the family's ordeal"); Campaign for Family Farms v. Veneman, No. 99-1165, 2001 WL 1631459, at *3 (D. Minn. July 19, 2001) (finding that disclosure of zip codes and dates of signatures could identify signers of petition); Ligorner v. Reno, 2 F. Supp. 2d 400, 405 (S.D.N.Y. 1998) (finding that redaction of a complaint letter to the Office of Professional Responsibility would be inadequate to protect the identities of the individual accused of misconduct and of the accuser, because "public could deduce the identities of the individuals whose names appear in the document from its context").

[267] See, e.g., Alirez, 676 F.2d at 428 (finding that mere deletion of names and other identifying data concerning small group of co-workers inadequate to protect them from embarrassment or reprisals because requester could still possibly identify individuals) (Exemption 7(C)); Karantsalis v. U.S. Dep't of Educ., No. 05-22088, slip op. at 4 n.4 (S.D. Fla. Dec. 19, 2005) (reasoning that because the requested document dealt "with a particular, small workplace, and since the contents of the report deal exclusively with confidential personnel matters, it is not possible, as in some cases, merely to excise personally identifying information"); Butler v. SSA, No. 03-0810, slip op. at 6 (W.D. La. June 25, 2004) (protecting complaints made against the requester, "because the employee or employees who complained could have been easily identified by the fact scenarios described in the documents"), aff'd on other grounds, 146 F. App'x 752 (5th Cir. 2005); Rothman v. Dep't of Agric., No. 94-8151, slip op. at 8-9 (C.D. Cal. June 17, 1996) (protecting information in employment applications that pertains to knowledge, skills, and abilities of unsuccessful applicants, because the "field of candidates for this particular position (canine officer) is specialized and is limited to about forty persons who work in same agency and may know each other personally"); McLeod v. Pena, No. 94-1924, slip op. at 6 (D.D.C. Feb. 9, 1996) (concluding that redaction of investigative memoranda and witness statements would not protect privacy when "community of possible witnesses and investigators is very small" -- eight officers and twenty enlisted personnel) (Exemption 7(C)); Barvick v. Cisneros, 941 F. Supp. 1015, 1021-22 (D. Kan. 1996) (protecting all information about unsuccessful federal job applicants because any information about members of "select group" that applies for such job could identify them).

record, "individual identities may become apparent from the specific details set forth in [the] documents," so that "deletion of personal identifying information . . . may not be adequate to provide the necessary privacy protection."[268] Indeed, a determination of what constitutes identifying information requires both an objective analysis and an analysis "from the vantage point of those familiar with the mentioned individuals."[269]

[268] Rashid v. DOJ, No. 99-2461, slip op. at 15-16 (D.D.C. June 12, 2001); see Whitehouse v. U.S. Dep't of Labor, 997 F. Supp. 172, 175 (D. Mass. 1998) (discerning "no practical way" to sanitize "personal and unique" medical evaluation reports to prevent identification by knowledgeable reader); Ortiz v. HHS, 874 F. Supp. 570, 573-75 (S.D.N.Y. 1995) (finding that factors such as type style, grammar, syntax, language usage, writing style, and mention of facts "that would reasonably be known only by a few persons" could lead to identification of the author if an anonymous letter were released) (Exemptions 7(C) and 7(D)), aff'd on Exemption 7(D) grounds, 70 F.3d 729 (2d Cir. 1995).

[269] Cappabianca v. Comm'r, U.S. Customs Serv., 847 F. Supp. 1558, 1565 (M.D. Fla. 1994). But see also ACLU v. DOD, 389 F. Supp. 2d at 572 ("If, because someone sees the redacted pictures and remembers from earlier versions leaked to, or otherwise obtained by, the media that his image, or someone else's, may have been redacted from the picture, the intrusion into personal privacy is marginal and speculative, arising from the event itself and not the redacted image.").