

U.S. Department of Homeland Security
500 12th St., SW
Washington, D.C. 20536



U.S. Immigration
and Customs
Enforcement

April 26, 2021

Hart W. Wood
American Oversight
1030 15th Street, NW
Suite B255
Washington, DC 20005

RE: American Oversight v. ICE, No. 20-1716
ICE FOIA Case Number 2020-ICLI-00056
Consult Release

Dear Mr. Wood,

This is the final production and consultation responses to your client's Freedom of Information Act (FOIA) request to U.S. Immigration and Customs Enforcement (ICE), dated March 24, 2020. Your client is seeking the following:

any documents gathered in response to a request made to former Chief of Staff Thomas Blank on or around January 30, 2019, for "any ICE Policy Memo's addressing enforcement, zero tolerance or family separation - from 2017 forward," as reflected in ICE records previously released to American Oversight

ICE has considered your request under the FOIA, 5 U.S.C. § 552.

For this production ICE sent out 2 pages for consultation to Department Homeland Security (DHS) Privacy Office. ICE has received the pages back and upon review has withheld portions of the pages pursuant to Exemptions (b)(5), (b)(6), and (b)(7)(C) of the FOIA, 5 U.S.C. § 552 as described below.

ICE has applied Exemption 5 to protect from disclosure intra-agency documents that contain the recommendations, opinions, and conclusions of agency employees.

FOIA Exemption 5 protects from disclosure those inter- or intra-agency documents that are normally privileged in the civil discovery context. The three most frequently invoked privileges are the deliberative process privilege, the attorney work-product privilege, and the attorney-client privilege. After carefully reviewing the responsive documents, ICE has determined that portions of the responsive documents qualify for protection under the deliberative process privilege and the attorney-client privilege. The deliberative process privilege protects the integrity of the deliberative or decision-making processes within the agency by exempting from mandatory

disclosure opinions, conclusions, and recommendations included within inter-agency or intra-agency memoranda or letters. The release of this internal information would discourage the expression of candid opinions and inhibit the free and frank exchange of information among agency personnel. The attorney-client privilege protects confidential communications between an attorney and his client relating to a legal matter for which the client has sought professional advice. It applies to facts divulged by a client to his attorney, and encompasses any opinions given by an attorney to his client based upon, and thus reflecting, those facts, as well as communications between attorneys that reflect client-supplied information. The attorney-client privilege is not limited to the context of litigation.

ICE has applied FOIA Exemptions 6 and 7(C) to protect from disclosure the names, e-mail addresses, and phone numbers of ICE and DHS employees contained within the documents, as well as the names, and other personally identifiable information of other individuals contained within the records.

FOIA Exemption 6 exempts from disclosure personnel or medical files and similar files the release of which would cause a clearly unwarranted invasion of personal privacy. This requires a balancing of the public's right to disclosure against the individual's right to privacy. The privacy interests of the individuals in the records you have requested outweigh any minimal public interest in disclosure of the information. Any private interest you may have in that information does not factor into the aforementioned balancing test.

FOIA Exemption 7(C) protects records or information compiled for law enforcement purposes that could reasonably be expected to constitute an unwarranted invasion of personal privacy. This exemption takes particular note of the strong interests of individuals, whether they are employees, suspects, witnesses, or investigators, in not being unwarrantedly associated with alleged criminal activity. That interest extends to persons who are not only the subjects of the investigation, but those who may have their privacy invaded by having their identities and information about them revealed in connection with an investigation and potentially exposing them to threats and/or harassment. Based upon the traditional recognition of strong privacy interest in law enforcement records, categorical withholding of information that identifies third parties in law enforcement records is ordinarily appropriate. As such, ICE has determined that the privacy interest in the identities of individuals in the records you have requested clearly outweigh any minimal public interest in disclosure of the information. Please note that any private interest you may have in that information does not factor into this determination.

If you have any questions about this letter, please contact Assistant United States Attorney Jeremy S. Simon at jeremy.simon@usdoj.gov.

Sincerely,

ROLANDO
VELASCO
JR



Digitally signed by
ROLANDO
VELASCO JR
Date: 2021.04.26
13:09:32 -04'00'

Senior Paralegal, ICE FOIA for

Fernando Pineiro Jr.
(A)FOIA Officer

Enclosure: 2 pages

From: Taylor, Miles <(b)(6); (b)(7)(C)>

Sent: Saturday, February 23, 2019 9:42 AM

To: (b)(6); <(b)(6); (b)(7)(C)> Wales, Brandon; Grady, Claire; Wolf, Chad; Vitiello, Ronald D; MCALEENAN, KEVIN K;

Houlton, Tyler; (b)(6); (b)(7)(C) Micone, Vincent; (b)(6); (b)(7)(C)

(b)(6); <(b)(6); (b)(7)(C)> Mitnick, John; (b)(6); (b)(7)(C) Hoffman, Jonathan; (b)(6);

(b)(6); <(b)(6); (b)(7)(C)> Gountanis, John; McCament, James; (b)(6); (b)(7)(C)

Subject: Border Crisis Response

DRAFT//DELIBERATIVE//FOR OFFICIAL USE ONLY//CLOSE HOLD

All,

(b)(5)

Miles

Miles Taylor

Chief of Staff

U.S. Department of Homeland Security

M: (b)(6); (b)(7)(C)

DRAFT//DELIBERATIVE//FOR OFFICIAL USE ONLY//CLOSE HOLD

BORDER CRISIS RESPONSE

(b)(5)

From: Wolf, Chad <(b)(6); (b)(7)(C)>
Sent: Wednesday, January 2, 2019 8:47 PM
To: MCALEENAN, KEVIN K <(b)(6); (b)(7)(C)> Grady, Claire <(b)(6); (b)(7)(C)>
Cc: Taylor, Miles <(b)(6); (b)(7)(C)>
Subject: RE: Tomorrow: Meeting with <(b)(6); (b)(7)(C)>
<(b)(6); (b)(7)(C)> in charge of most things these days ☺
What time is the meeting tomorrow?
Is it you and Claire?

From: MCALEENAN, KEVIN K <(b)(6); (b)(7)(C)>
Sent: Wednesday, January 2, 2019 6:59 PM
To: Grady, Claire <(b)(6); (b)(7)(C)>
Cc: Wolf, Chad <(b)(6); (b)(7)(C)> Taylor, Miles <(b)(6); (b)(7)(C)>
Subject: Re: Tomorrow: Meeting with <(b)(6); (b)(7)(C)>
I just received an invite. <(b)(6); (b)(7)(C)> also said he needed to meet with me after the pre-brief. POTUS keep referring to <(b)(6); (b)(7)(C)> as helping DHS with the wall during the pre-brief.

Sent from my iPhone

On Jan 2, 2019, at 6:37 PM, Grady, Claire <(b)(6); (b)(7)(C)> wrote:

(b)(5)

From: Wolf, Chad
Sent: Wednesday, January 2, 2019 6:11:50 PM
To: Grady, Claire; MCALEENAN, KEVIN K
Cc: Taylor, Miles; Wolf, Chad
Subject: Tomorrow: Meeting with <(b)(6); (b)(7)(C)>
Also - need to reiterate the concerns with bed space/capacity under a CR.
CW

From: Wolf, Chad <(b)(6); (b)(7)(C)>
Sent: Wednesday, January 2, 2019 6:00 PM
To: Grady, Claire; MCALEENAN, KEVIN K
Cc: Taylor, Miles; Wolf, Chad
Subject: Meeting with <(b)(6); (b)(7)(C)>
Are you guys tracking (and arranging) a meeting with <(b)(6); (b)(7)(C)> to review the BSIP, priority locations, contracting, etc., etc.?
Happy to assist.
CW