



United States Department of State

Washington, D.C. 20520

August 19, 2021

Case No. FL-2020-00018

Melanie Sloan
American Oversight
1030 15th Street NW, B255
Washington, DC 20005

Dear Ms. Sloan:

As noted in our letter dated July 8, 2021, we are processing your request for material under the Freedom of Information Act (the “FOIA”), 5 U.S.C. § 552. The Department of State has identified three additional responsive records subject to the FOIA. We have determined that all three records may be released in part.

An enclosure explains the FOIA exemptions and other grounds for withholding material. Where we have made excisions, the applicable FOIA exemptions are marked on each document. All non-exempt material that is reasonably segregable from the exempt material has been released and is enclosed.

We will keep you informed as your case progresses. If you have any questions, you may contact Trial Attorney Joshua C. Abbuhl at Joshua.Abbuhl@usdoj.gov or (202) 616-2531. Please refer to the case number, F-2019-06332/FL-2020-00018, and the civil action number, 19-cv-02934, in all correspondence about this case.

Sincerely,

Jeanne Miller
Chief, Programs and Policies Division
Office of Information Programs and Services

Enclosures: As stated.

The Freedom of Information Act (5 USC 552)

FOIA Exemptions

(b)(1) Information specifically authorized by an executive order to be kept secret in the interest of national defense or foreign policy. Executive Order 13526 includes the following classification categories:

- 1.4(a) Military plans, systems, or operations
- 1.4(b) Foreign government information
- 1.4(c) Intelligence activities, sources or methods, or cryptology
- 1.4(d) Foreign relations or foreign activities of the US, including confidential sources
- 1.4(e) Scientific, technological, or economic matters relating to national security, including defense against transnational terrorism
- 1.4(f) U.S. Government programs for safeguarding nuclear materials or facilities
- 1.4(g) Vulnerabilities or capabilities of systems, installations, infrastructures, projects, plans, or protection services relating to US national security, including defense against transnational terrorism
- 1.4(h) Weapons of mass destruction

(b)(2) Related solely to the internal personnel rules and practices of an agency

(b)(3) Specifically exempted from disclosure by statute (other than 5 USC 552), for example:

ARMSEXP	Arms Export Control Act, 50a USC 2411(c)
CIA PERS/ORG	Central Intelligence Agency Act of 1949, 50 USC 403(g)
EXPORT CONTROL	Export Administration Act of 1979, 50 USC App. Sec. 2411(c)
FS ACT	Foreign Service Act of 1980, 22 USC 4004
INA	Immigration and Nationality Act, 8 USC 1202(f), Sec. 222(f)
IRAN	Iran Claims Settlement Act, Public Law 99-99, Sec. 505

(b)(4) Trade secrets and confidential commercial or financial information

(b)(5) Interagency or intra-agency communications forming part of the deliberative process, attorney-client privilege, or attorney work product

(b)(6) Personal privacy information

(b)(7) Law enforcement information whose disclosure would:

- (A) interfere with enforcement proceedings
- (B) deprive a person of a fair trial
- (C) constitute an unwarranted invasion of personal privacy
- (D) disclose confidential sources
- (E) disclose investigation techniques
- (F) endanger life or physical safety of an individual

(b)(8) Prepared by or for a government agency regulating or supervising financial institutions

(b)(9) Geological and geophysical information and data, including maps, concerning wells

Other Grounds for Withholding

NR Material not responsive to a FOIA request excised with the agreement of the requester

From:	Brechbuhl, Thomas U (b)(6)
To:	(b)(6)
CC:	EUR-Press /o=SBUState/ou=Al-Hillah/cn=Recipients/cn=EUR-Press-DL <EUR-Press-DL@state.gov>; C_Special Assistants /o=SBUState/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=C_Special Assistantsafe <C_SpecialAssistants@state.gov>
Subject:	Re: For C's clearance today: Response to FP to refute Lutsenko "do not prosecute" allegations
Date:	2019/03/30 23:59:17
Type:	Note

Thanks.
Cleared.
TUB

Sent from my iPhone

On Mar 30, 2019, at 6:58 PM, (b)(6) wrote:

Hello Sir,
Thanks for your for your email. The attribution will be on background attributable to a State Department spokesperson.
Regards,

(b)(6)

From: Brechbuhl, Thomas U (b)(6)
Date: March 30, 2019 at 7:41:35 PM EDT
To: (b)(6)
Cc: EUR-Press <EUR-Press-DL@state.gov>, C_Special Assistants <C_SpecialAssistants@state.gov>
Subject: Re: For C's clearance today: Response to FP to refute Lutsenko "do not prosecute" allegations

Thanks (b)(6). Before I sign off, can you please tell me how this will be attributed?
TUB

Sent from my iPhone

On Mar 30, 2019, at 5:27 PM, (b)(6) wrote:

Hello Mr. Brechbuhl,

We received an inquiry from Foreign Policy as they finish up their scene setter story for Sunday's elections. They're looking for our response to the Lutsenko allegation of a "do not prosecute" list, which is something we've previously refuted to other outlets. Please clear the following lines to respond to this and any other inquiries on this specific allegation. P requested that we send this guidance to you, C, for final approval.

The Ukrainian Prosecutor General's office accused Ambassador Yovanovitch of interfering in the functioning of his office and says the United States gave him a "do not prosecute list." How do you respond?

(b)(5)

Thanks,

(b)(6)

Sender:	Brechbuhl, Thomas U (b)(6) (b)(6)
Recipient:	(b)(6) EUR-Press /o=SBUState/ou=Al-Hillah/cn=Recipients/cn=EUR-Press-DL <EUR-Press-DL@state.gov>; C_Special Assistants /o=SBUState/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=C_Special Assistantsafe <C_SpecialAssistants@state.gov>
Sent Date:	2019/03/30 23:59:17

From:	(b)(6)
To:	(b)(6)
CC:	C_Special Assistants /o=SBUState/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=C_Special Assistantsafe <C_SpecialAssistants@state.gov>; EUR-Press /o=SBUState/ou=Al-Hillah/cn=Recipients/cn=EUR-Press-DL <EUR-Press-DL@state.gov>; Brechbuhl, Thomas U (b)(6)
Subject:	Re: For C's clearance today: Response to FP to refute Lutsenko "do not prosecute" allegations
Date:	2019/03/31 00:24:12
Type:	Note

adding Counselor

Sent from my iPhone

On Mar 30, 2019, at 4:13 PM (b)(6) > wrote:

Colleagues,

We received an inquiry from Foreign Policy as they finish up their scene setter story for Sunday's elections. They're looking for our response to the Lutsenko allegation of a "do not prosecute" list, which is something we've previously refuted to other outlets. Please clear the following lines to respond to this and any other inquiries on this specific allegation. P requested that we send to you, C, for final approval.

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(b)(5)

(b)(5)

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(b)(6)

Sender:	(b)(6)
	(b)(6)
Recipient:	C_Special Assistants /o=SBUState/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=C_Special Assistantsafe <C_SpecialAssistants@state.gov>; EUR-Press /o=SBUState/ou=Al-Hillah/cn=Recipients/cn=EUR-Press-DL <EUR-Press-DL@state.gov>; Brechtbuhl, Thomas U (b)(6)
	(b)(6)
Sent Date:	2019/03/31 00:24:11
Delivered Date:	2019/03/31 00:24:12

From:	Brechbuhl, Thomas U	(b)(5)
	(b)(5)	
To:	C_Schedulers /o=SBUState/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=C_Schedulerse8b <C_Schedulers@state.gov>	
Subject:	Fwd: RFE	
Date:	2018/11/15 18:11:23	
Type:	Note	

(b)(5)

(b)(6)

TUB

T. Ulrich Brechbühl
Counselor, U.S. Department of State

Begin forwarded message:

From: "Smith, Daniel B" (b)(6)
Date: November 15, 2018 at 1:03:37 PM EST
To: "Brechbuhl, Thomas U" (b)(6)
Subject: RFE

Ulrich,

(b)(5)

(b)(5) Dan

Sent from my BlackBerry 10 smartphone.

Sender:	Brechbuhl, Thomas U	(b)(6)
	(b)(6)	
Recipient:	C_Schedulers /o=SBUState/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=C_Schedulerse8b <C_Schedulers@state.gov>	
Sent Date:	2018/11/15 18:11:22	
Delivered Date:	2018/11/15 18:11:23	