



U.S. Department of Justice
Office of Information Policy
Sixth Floor
441 G Street, NW
Washington, DC 20530-0001

Telephone: (202) 514-3642

April 17, 2020

Austin Evers
American Oversight
1030 15th Street NW Suite B255
Washington, DC 20005
foia@americanoversight.org

Re: EOUSA-2020-000017
19-cv-03540 (D.D.C.)
VRB:TAZ:BPF

Dear Austin Evers:

This is an interim response to your Freedom of Information Act (FOIA) requests dated and received by EOUSA, OIP, and others, on September 29, 2019 and October 4, 2019, in which you are seeking various records of communications either containing certain terms, with certain individuals, or on certain subject matters, each generally related to the Ukraine matter. This response is made on behalf of EOUSA.

Please be advised that searches have been conducted within EOUSA, and 105 pages containing records responsive to your request were located. It has been determined that 9 of these pages are appropriate for release with excisions made pursuant to Exemptions 5 and 6 of the FOIA, 5 U.S.C. § 552(b)(5) and (b)(6), and copies are enclosed. Additionally, it has been determined that ninety-six pages should be withheld in full pursuant to Exemption 7(A). Exemption 5 pertains to certain inter- and intra-agency communications protected by the deliberative process privilege. Exemption 6 pertains to information the release of which would constitute a clearly unwarranted invasion of personal privacy. Exemption 7(A) pertains to records or information compiled for law enforcement purposes, the release of which could reasonably be expected to interfere with enforcement proceedings.

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. See 5 U.S.C. § 552(c) (2018). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

If you have any questions regarding this response, please contact Andrew Freidah of the Department's Civil Division, Federal Programs Branch, at 202-305-0879.

Sincerely,

A handwritten signature in black ink, appearing to read "Timothy Ziese", with a horizontal line drawn underneath it.

Timothy Ziese
Senior Supervisory Attorney
for
Vanessa R. Brinkmann
Senior Counsel

Enclosures

From: [Durham, John \(USACT\)](#)
To: [Carson, Thomas \(USACT\)](#)
Subject: Fwd: Question from CNN on Giuliani
Date: Friday, September 27, 2019 4:07:47 PM

(b) (5) Thanks.

Sent from my iPhone

Begin forwarded message:

From: "Polantz, Katelyn" <Katelyn.Polantz@turner.com>
Date: September 27, 2019 at 9:04:21 PM GMT+2
To: (b) (6) <[@usdoj.gov](mailto:(b) (6)@usdoj.gov)> (b) (6) <[@usdoj.gov](mailto:(b) (6)@usdoj.gov)>
Subject: Question from CNN on Giuliani

Hi Mr. Durham,

I am a Washington-based reporter with CNN, covering the Justice Department and the federal court here. I've learned some details about your review into intelligence used in the Russia probe, and have been following discussion of your work on this review in the whistleblower's complaint regarding Ukraine. I have some questions about what, if anything, you've received or heard from Rudy Giuliani and others associated with him. Would you be able to speak about that? I would be happy to speak with you on background (meaning I could significantly obscure your name and position) or off the record (not for reporting but for a better understanding of the situation related to Giuliani) if you would prefer.

Thank you for considering,

Katelyn

--

Katelyn Polantz
cell: 202-738-8185
CNN
Reporter, Justice & crime

From: [Durham, John \(USACT\)](#)
To: (b) (6) (USACT)
Cc: [Glasser, James](#)
Subject: Re: Article of Interest
Date: Wednesday, October 2, 2019 11:50:18 AM

Ditto. Judge Mulcahy or Judge Hartmere might have information if Mr. Sale was an AUSA in our office.

Sent from my iPhone

On Oct 2, 2019, at 11:48 AM, (b) (6) (USACT) <(b) (6)@usa.doj.gov> wrote:

No recollection of him at all.

(Won't be long before people are saying the same thing about all of us.)

Best to you and all the Glassers, (b) (6)

From: Glasser, James <JGlasser@wiggin.com>
Sent: Wednesday, October 02, 2019 10:38 AM
To: Durham, John (USACT) (b) (6)@usa.doj.gov; (b) (6) (USACT) (b) (6)@usa.doj.gov>
Subject: Article of Interest

(b) (6)

I just read an article indicating that Jon Sale will be representing Rudy. The brief bio indicates that Sale was an AUSA in SDNY and Connecticut. Do you guys have a recollection of him being an AUSA in D Conn? I never heard his name mentioned as an alum of our office before seeing the reference.

I hope you both are well.

Jim

James I. Glasser
Wiggin and Dana LLP
265 Church Street, P.O. Box 1832
New Haven, Connecticut 06508-1832
Direct: 203.498.4313 | jglasser@wiggin.com

New York Office
437 Madison Avenue, 35th Floor
New York, New York 10022
212.490.1700

<image001.jpg>

This electronic mail (including any attachments) may contain information that is privileged, confidential, and/or otherwise protected under applicable law from disclosure to anyone other than its intended recipient(s). Any dissemination or use of this electronic mail or its contents (including any attachments) by persons other than the intended recipient(s) is strictly prohibited. If you have received this message in error, please notify the sender or [Wiggin and Dana LLP](#) at 203-498-4400 immediately and then delete the original message (including any attachments) in its entirety. We take steps to protect against viruses and other malicious code but advise you to carry out your own checks and precautions as we accept no liability for any which remain. We may monitor electronic mail sent to and from our server(s) to ensure regulatory compliance to protect our clients and business.

Disclosure under U.S. IRS Circular 230: [Wiggin and Dana LLP](#) informs you that any tax advice contained in this communication (including any attachments) was not intended or written to be used, and cannot be used, for the purpose of avoiding federal tax related penalties or promoting, marketing or recommending to another party any transaction or matter addressed herein.

From: [Durham, John \(USACT\)](#)
To: [Carson, Thomas \(USACT\)](#)
Subject: Re: Hi Tom - Whistleblower complaint on Durham
Date: Thursday, September 26, 2019 12:36:18 PM

(b) (5)

Sent from my iPhone

On Sep 26, 2019, at 10:00 AM, Carson, Thomas (USACT) (b) (6) <[@usa.doj.gov](mailto:(b) (6)@usa.doj.gov)> wrote:

(b) (5)

From: Mallin, Alexander W. <Alexander.W.Mallin@abc.com>

Sent: Thursday, September 26, 2019 9:47 AM

To: Carson, Thomas (USACT) <(b) (6) <[@usa.doj.gov](mailto:(b) (6)@usa.doj.gov)>>

Subject: Hi Tom - Whistleblower complaint on Durham

Hi Tom,

I wanted to reach out to you about the whistleblower complaint and a footnote that questioned whether Rudy Giuliani was at all coordinating his efforts regarding Ukraine with Mr. Durham.

The footnote on page 5 reads, "In an interview with Fox News on 8 August, Mr. Giuliani claimed that Mr. John Durham, whom Attorney General Barr designated to lead this probe, was "spending a lot of time in Europe" because he was "investigating Ukraine." I do not know the extent to which, if at all, Mr. Giuliani is directly coordinating his efforts on Ukraine with Attorney General Barr or Mr. Durham."

Kerri Kupec released a statement yesterday saying that the Attorney General has never communicated with Mr. Giuliani regarding Ukraine. Can Mr. Durham say the same? That he has never communicated with Rudy Giuliani regarding Ukraine or any other investigations for that matter? Can he say whether his investigation into Ukraine as acknowledged by DOJ yesterday was at all influenced by Mr. Giuliani's own efforts in Ukraine?

Any guidance on a response would be helpful.

Thank you,
Alex

Alex Mallin // ABC News - Justice Reporter // (816)721-0906 // @alex_mallin

From: [Durham, John \(USACT\)](#)
To: [Carson, Thomas \(USACT\)](#)
Subject: Re: Question from CNN on Giuliani
Date: Friday, September 27, 2019 4:16:11 PM

Thanks.

Sent from my iPhone

On Sep 27, 2019, at 10:09 PM, Carson, Thomas (USACT) <(b) (6)@usa.doj.gov> wrote:

(b) (5)

From: Durham, John (USACT) <(b) (6)@usa.doj.gov>
Sent: Friday, September 27, 2019 4:08 PM
To: Carson, Thomas (USACT) <(b) (6)@usa.doj.gov>
Subject: Fwd: Question from CNN on Giuliani

(b) (5). Thanks.

Sent from my iPhone

Begin forwarded message:

From: "Polantz, Katelyn" <Katelyn.Polantz@turner.com>
Date: September 27, 2019 at 9:04:21 PM GMT+2
To: (b) (6)@usdoj.gov <(b) (6)@usdoj.gov>
Subject: Question from CNN on Giuliani

Hi Mr. Durham,

I am a Washington-based reporter with CNN, covering the Justice Department and the federal court here. I've learned some details about your review into intelligence used in the Russia probe, and have been following discussion of your work on this review in the whistleblower's complaint regarding Ukraine. I have some questions about what, if anything, you've received or heard from Rudy Giuliani and others associated with him. Would you be able to speak about that?

I would be happy to speak with you on background (meaning I could significantly obscure your name and position) or off the record (not for reporting but for a better understanding of the situation related to Giuliani) if you would prefer.

Thank you for considering,
Katelyn

--

Katelyn Polantz

cell: 202-738-8185

CNN

Reporter, Justice & crime

From: [Durham, John \(USACT\)](#)
To: [Carson, Thomas \(USACT\)](#)
Subject: Re: Request for comment from CNN on intel review
Date: Friday, October 18, 2019 5:50:40 PM

Thanks. Again, have a great weekend . . . and Happy Birthday to (b) (6)

Sent from my iPhone

On Oct 18, 2019, at 4:28 PM, Carson, Thomas (USACT) <(b) (6)@usa.doj.gov> wrote:

I responded.

On Oct 18, 2019, at 4:23 PM, Polantz, Katelyn <Katelyn.Polantz@turner.com> wrote:

Hi Mr. Durham,

We are finishing a story today about the status of your investigation into the origins of the Russia probe, disclosing several things we have learned about steps you have taken, including:

- how you have interviewed some witnesses this summer
- how at least two people (from the FBI) have been unwilling to speak with your investigators
- how you have not done any CIA interviews yet
- how you have yet forced some testimony with subpoenas
- how you have visited both the CIA and Main Justice to work on the investigation, and have set up a small office at Main
- how you have received information from the inspector general's FISA investigation--which is somewhat unusual for the IG's office to share

Our story describes how your investigation could be marred because of the White House's recent embrace of it. (We do have the statement from the Department yesterday in response to Mick Mulvaney's comments.) Would you be able to provide additional comment on this and what we have learned, above?

Thank you. My number is 202-738-8185.

Katelyn

--

Katelyn Polantz
Reporter, CNN
cell: 202-738-8185

From: Polantz, Katelyn <Katelyn.Polantz@turner.com>
Sent: Friday, September 27, 2019 4:14 PM
To: Carson, Thomas (USACT) (b) (6) <[@usdoj.gov](mailto:(b) (6)@usdoj.gov)>
Subject: Re: Question from CNN on Giuliani

Thanks very much, Tom. Have a nice weekend
-Katelyn

From: Carson, Thomas (USACT) <(b) (6) <[@usdoj.gov](mailto:(b) (6)@usdoj.gov)>
Sent: Friday, September 27, 2019 4:13 PM
To: Polantz, Katelyn <Katelyn.Polantz@turner.com>
Subject: RE: Question from CNN on Giuliani

Katelyn – I'm the media contact for the U.S. Attorney's Office in Connecticut. U.S. Attorney Durham declines to comment, and DOJ's Office of Public Affairs is handling media inquiries on this subject.

Tom Carson

(b) (6)

Begin forwarded message:

From: "Polantz, Katelyn"
<Katelyn.Polantz@turner.com>
Date: September 27, 2019 at 9:04:21 PM GMT+2
To: (b) (6) <[@usdoj.gov](mailto:(b) (6)@usdoj.gov)>
(b) (6) <[@usdoj.gov](mailto:(b) (6)@usdoj.gov)>
Subject: Question from CNN on Giuliani

Hi Mr. Durham,

I am a Washington-based reporter with CNN, covering the Justice Department and the federal court here. I've learned some details about your review into intelligence used in the Russia probe, and have been following discussion of your work on this review in the whistleblower's complaint regarding Ukraine. I have some questions about what, if anything, you've received or heard from Rudy Giuliani and others associated with him. Would you be able to speak about that?

I would be happy to speak with you on background (meaning I could significantly obscure your name and position) or off the record (not for reporting but for a better understanding of the situation related to Giuliani)

if you would prefer.
Thank you for considering,
Katelyn

--

Katelyn Polantz
cell: 202-738-8185
CNN
Reporter, Justice & crime