



U.S. Department of Justice
Environment and Natural Resources Division

236380-4-1-22-05821

Law and Policy Section
P.O. Box 7415
Ben Franklin Station
Washington, DC 20044-7415

Telephone (202) 514-1442

October 11, 2022

VIA E-MAIL

Dylan Winters
Khahilia Shaw
American Oversight
1030 15th Street, NW
Suite B255
Washington, DC 20005
(202) 539-6507
foia@americanoversight.org

FOIA No.: 2022-05821

Dear Dylan Winters and Khahilia Shaw:

This letter responds to your two-part Freedom of Information Act (FOIA) request for records beginning January 20, 2017, and seeking:

1. All email communications (including emails, email attachments, complete email chains, calendar invitations, and calendar invitation attachments) sent or received by former ENRD Assistant Attorney General (AAG) Jeffrey Clark containing any of the following key terms: (a) “Thomas Clerk;” (b) “Clerk World;” (c) “Ginni Thomas;” (d) “Justice Thomas;” (e) “Clarence Thomas;” (f) “Clanton;” (g) “Groundswell;” (h) “Liberty Consulting;” (i) “CNP Action;” (j) “Council for National Policy;” (k) “Conservative Action Project;” (l) “United in Purpose;” (m) “UIP;” (n) “Ziklag;” (o) “Third Century Group;” and
2. All email communications (including emails, email attachments, complete email chains, calendar invitations, and calendar invitation attachments) and text messages or messages on messaging platforms (such as Slack, GChat or Google Hangouts, Lync, Skype, Twitter direct messages, Facebook messages, WhatsApp, Signal, Telegram, or Parler) between (a) former ENRD AAG Jeffrey Clark, or any person communicating on his behalf, and (b) Virginia “Ginni” Thomas or any person communicating on her behalf, including but not limited to Crystal Clanton, communications from an email address ending in @libertyinc.co, or a phone number with the last four digits 8983.

The Environment and Natural Resources Division (ENRD) of the Department of Justice received your request on April 12, 2022. On May 10, 2022, ENRD FOIA Coordinator Charles Smiroldo emailed you an acknowledgment letter informing you that due to unusual circumstances we would not be able to process your FOIA request within 20 business days.

Please find attached one PDF (three pages) responsive to your request. ENRD's search that located these three pages, which are responsive to item one of your request, was limited to a term search of the parent email communication. ENRD did not locate any records responsive to item two of your request. A portion of one of the pages has been redacted pursuant to Exemption 6 of the FOIA, which relates to information about individuals in "personnel and medical files and similar files" where the disclosure of such information would "constitute an unwarranted invasion of personal privacy." 5 U.S.C. § 552(b)(6). Please be advised that we have considered the foreseeable harm standard when reviewing records and applying FOIA exemptions.

There are no fees associated with the processing of your FOIA request.

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) (2006 & Supp. IV 2010). 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 are not satisfied with ENRD's determination in response to this request, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, 441 G Street, NW, 6th Floor, Washington, D.C. 20530, or you may submit an appeal through OIP's FOIA STAR portal by creating an account following the instructions on OIP's website: <https://www.justice.gov/oip/submit-and-track-request-or-appeal>. Your appeal must be postmarked or electronically transmitted within 90 days of the date of my response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal."

If you need any further assistance, please contact Madeline Van Nostrand at (202) 514-3473 or our FOIA Public Liaison Charles Smiroldo at (202) 514-0424. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services it offers. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at (202) 741-5770; toll free at 1 (877) 684-6448; or facsimile at (202) 741-5769.

Sincerely,

/s/ Judy Harvey

Judy Harvey
Assistant Chief, Law & Policy Section

From: Clark, Jeffrey (ENRD) </O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=5875129421F04DDDAA825F5A484527B3-JCLARK_F6CB>
To: Oakes, Matthew (ENRD)
CC: Brightbill, Jonathan (ENRD); Smith, Justin (ENRD)
Sent: 12/4/2019 11:40:53 AM
Subject: RE: Administrative Law Summit: Bios for panelists

Great thanks. Have Nick bring me a print.

From: Oakes, Matthew (ENRD) <MOakes@ENRD.USDOJ.GOV>
Sent: Wednesday, December 4, 2019 11:28 AM
To: Clark, Jeffrey (ENRD) <JClark@ENRD.USDOJ.GOV>
Cc: Brightbill, Jonathan (ENRD) <JBrightbil@ENRD.USDOJ.GOV>; Smith, Justin (ENRD) <JSmith2@ENRD.USDOJ.GOV>
Subject: Administrative Law Summit: Bios for panelists

Hi Jeff,

The plan for Friday is that Dan Feith will introduce the moderator prior to each panel and each moderator will introduce each of their panelists. To facilitate introductions I've put together a short bio for each of your panelists:

Eric Hargan

Eric Hargan is the Deputy Secretary of the Department of Health and Human Services. From 2003 to 2007, Mr. Hargan served at HHS in a variety of capacities, including as Acting Deputy Secretary. During his tenure at HHS, Mr. Hargan also served as the Department's Regulatory Policy Officer, where he oversaw the development and approval of all HHS, CMS, and FDA regulations and significant guidances.

In between his tours of duty at HHS Mr. Hargan taught at Loyola Law School in Chicago, focusing on administrative law and healthcare regulations. He received his B.A. from Harvard University, and his J.D. from Columbia University Law School, where he was Senior Editor of the *Columbia Law Review*.

Steve Bradbury

Steve Bradbury is the Acting Deputy Secretary and General Counsel of the U.S. Department of Transportation. Before joining DOT, Mr. Bradbury was a litigation partner at the law firm Dechert LLP in Washington, D.C., where his practice focused on regulatory enforcement and investigations, rulemaking and judicial review of agency actions, appellate cases, and antitrust matters. From 2005 to 2009, Mr. Bradbury headed the Office of Legal Counsel at the U.S. Department of Justice. Before serving in the Justice Department, Mr. Bradbury was a law partner at Kirkland & Ellis LLP for ten years.

He clerked for Justice Clarence Thomas on the Supreme Court and for Judge James L. Buckley on the D.C. Circuit. Mr. Bradbury graduated from Michigan Law School and received his B.A. from Stanford University.

Andrew Olmem

Andrew Olmem is the Deputy Assistant to the President and Deputy Director of the National Economic Council. Prior to working in the White House Mr. Olmem was a partner in the financial services, and legislative and government affairs practice groups at Venable LLP. From 2005-2013 he acted as Deputy Staff Director and Chief Counsel for the U.S. Senate Committee on Banking, Housing, and Urban Affairs.

Mr. Olmem graduated from Washington and Lee University School of Law and also received his B.A. from Washington and Lee University.

Matt Oakes

Attorney Advisor
United States Department of Justice
Environment and Natural Resources Division
Law and Policy Section
(202) 514-2686

From: Clark, Jeffrey (ENRD) </O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=5875129421F04DDDA825F5A484527B3-JCLARK_F6CB>
To: Snow, Corinne (ENRD)
Sent: 12/6/2019 4:32:45 PM
Subject: RE: APA summit

Why don't you send him a version that predates the OSG comments?

From: Snow, Corinne (ENRD) <CSnow@ENRD.USDOJ.GOV>
Sent: Friday, December 6, 2019 4:29 PM
To: Clark, Jeffrey (ENRD) <JClark@ENRD.USDOJ.GOV>
Subject: RE: APA summit

Jeff,
The most recent version contains the OSG comments and edits. Do you want me to circulate their re-write (which is still under review)?

From: Clark, Jeffrey (ENRD) <JClark@ENRD.USDOJ.GOV>
Sent: Friday, December 6, 2019 4:27 PM
To: Snow, Corinne (ENRD) <CSnow@ENRD.USDOJ.GOV>
Subject: Fwd: APA summit

Corinne. Please send Aram a copy of the admin record memo to comment on.
Also please share his links below with Sarah and the team.
Jeff

Sent from my iPhone

Begin forwarded message:

From: "Gavoor, Aram A. (CIV)" <agavoor@CIV.USDOJ.GOV>
Date: December 6, 2019 at 4:14:22 PM EST
To: "Clark, Jeffrey (ENRD)" <JClark@ENRD.USDOJ.GOV>
Subject: APA summit

Hello Mr. Clark,

It was a pleasure to meet you, today. A small correction from Adam's description of my background—I am a career senior counsel from within the *Civil* Division. I spent most of last year on detail to the DPC handling the justice policy portfolio. I also teach administrative law, federal courts, and national security law at GW Law. Germane to our conversation about the administrative records work that I have done solely in my personal capacity, please see below for two items that may be of interest to you as a fellow administrative law enthusiast. First, I am linking to a teleforum that I did with Adam and Brett Shumate on the topic: <https://fedsoc.org/events/the-future-of-administrative-records-after-department-of-commerce-v-new-york>.

Second, I am linking to a *Yale JREG* blog post that I authored, which previews a follow-up essay (forthcoming *Administrative Law Review*) to an administrative records article of mine that Justice Thomas cited to in his *Department of Commerce* partial concurrence: <https://www.yalejreg.com/nc/what-does-the-future-hold-for-administrative-records-after-department-of-commerce-v-new-york-by-aram-a-gavoor/>.

Should you have a moment to casually sit over coffee, it would be my pleasure to join you.

Regards,

Aram Gavoor

Aram A. Gavoor

Senior Litigation Counsel/Senior Counsel for National Security
Office of Immigration Litigation | District Court Section
United States Department of Justice | Civil Division
P.O. Box 868 | Ben Franklin Station | Washington, DC 20044

(b) (6)

This email and any attachments thereto may contain information that is privileged, confidential, or otherwise protected from disclosure

AMERICAN
OVERSIGHT

DOJ-22-0354-A-000002

FOIA 2022-05821_0004564

under applicable law(s). If the reader of this email is not the intended recipient or the employee or agent responsible for delivering the email to the intended recipient, you are hereby notified that any dissemination, distribution, copying, or use of this message or its contents is strictly prohibited. If you have received this email in error, please notify us by email or telephone and delete or destroy the original message, along with any copies (electronic or paper).