United States Department of the Interior
OFFICE OF THE SECRETARY
Washington, DC 20240

IN REPLY REFER TO:
7202.4-DOI-OS-2021-004067

April 13, 2022

Via email: FOIA@protectpublicstrust.org

Morgan Yardis
Protect the Public's Trust
5716 Nordeen Oak Court
Burke, VA 22015

Dear Ms. Yardis:

The Office of the Secretary FOIA office received your Freedom of Information Act (FOIA) request, dated May 7, 2021, on May 7, 2021, and assigned it control number **DOI-OS-2021-004067.** Please cite this number in any future communications with our office regarding your request.

> Any and all records to, from, or related to Tommy Beaudreau during his tenure at the Department of the Interior during the Obama Administration. This should include all calendars, schedules, email, documents, decisions, notes, text messages, or other records produced by or for Tommy Beaudreau.

Response

We write today to provide the ninth interim response to your request on behalf of the Office of the Secretary.

Please find enclosed today one file, consisting of 146 pages. These pages are from Mr. Beaudreau's cloud drive. This production is from 504 pages originally reviewed for the month of March.

We continue to search for and process additional records which are responsive to your request. Going forward, we will review approximately 500 pages of potentially responsive material per month and produce all segregable, non-exempt material to you on a rolling basis.

In reviewing the released records, you will find that the government has made certain redactions pursuant to FOIA Exemptions 5, 6 and 7 and found at 5 U.S.C. § 552(b)(5), 5 U.S.C. § 552(b)(6) and 5 U.S.C. § 552(b)(7).

Exemption 5

Exemption 5 allows an agency to withhold "inter-agency or intra-agency memorandums or letters which would not be available by law to a party ... in litigation with the agency." 5 U.S.C. § 552(b)(5). Exemption 5 therefore incorporates the privileges that protect materials from discovery in litigation, including the deliberative process, attorney work-product, attorney-client, and commercial information privileges. We are withholding one page in part under Exemption 5 because they qualify to be withheld both because they meet the Exemption 5 threshold of being inter-agency or intra-agency and under the following privileges:

Deliberative Process Privilege

The deliberative process privilege protects the decision-making process of government agencies and encourages the frank exchange of ideas on legal or policy matters by ensuring agencies are not forced to operate in a fish bowl. A number of policy purposes have been attributed to the deliberative process privilege, such as: (1) assuring that subordinates will feel free to provide the decisionmaker with their uninhibited opinions and recommendations; (2) protecting against premature disclosure of proposed policies; and (3) protecting against confusing the issues and misleading the public.

The deliberative process privilege protects materials that are both predecisional and deliberative. The privilege covers records that reflect the give-and-take of the consultative process and may include recommendations, draft documents, proposals, suggestions, and other subjective documents which reflect the personal opinions of the writer rather than the policy of the agency.

The materials that have been withheld under the deliberative process privilege of Exemption 5 are both predecisional and deliberative. They do not contain or represent formal or informal agency policies or decisions. They are the result of frank and open discussions among employees of the Department of the Interior. Their contents have been held confidential by all parties and public dissemination of this information would expose the agency's decision-making process in such a way as to discourage candid discussion within the agency, and thereby undermine its ability to perform its mandated functions.

The deliberative process privilege does not apply to records created 25 years or more before the date on which the records were requested.

Exemption 6

Exemption 6 allows an agency to withhold "personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." 5 U.S.C. § 552(b)(6).

The phrase "similar files" covers any agency records containing information about a particular individual that can be identified as applying to that individual. To determine whether releasing records containing information about a particular individual would constitute a clearly

unwarranted invasion of personal privacy, we are required to balance the privacy interest that would be affected by disclosure against any public interest in the information.

Under the FOIA, the only relevant public interest to consider under the exemption is the extent to which the information sought would shed light on an agency's performance of its statutory duties or otherwise let citizens 'know what their government is up to. The burden is on the requester to establish that disclosure would serve the public interest. When the privacy interest at stake and the public interest in disclosure have been determined, the two competing interests must be weighed against one another to determine which is the greater result of disclosure: the harm to personal privacy or the benefit to the public. The purposes for which the request for information is made do not impact this balancing test, as a release of information requested under the FOIA constitutes a release to the general public.

The information that has been withheld under Exemption 6 consists of a private residential address and email addresses and phone numbers of law enforcement personnel. We have determined that the individuals to whom this information pertains have a substantial privacy interest in withholding it. Because the harm to personal privacy is greater than whatever public interest may be served by disclosure, release of the information would constitute a clearly unwarranted invasion of the privacy of these individuals, and we are withholding it under Exemption 6.

Exemption 7

Exemption 7 protects from disclosure "records or information compiled for law enforcement purposes" if the records fall within one or more of six specific bases for withholding set forth in subparts (A) through (F). 5 U.S.C. § 552(b)(7)(A)-(F). We are withholding three pages in part under Exemption 7 because they are protected under the following subparts:

Exemption 7(C) protects law enforcement records if their release could reasonably be expected to constitute an unwarranted invasion of personal privacy. It is regularly applied to withhold references to individuals in law enforcement files. For the materials that have been withheld under 7(C), we have determined that releasing them would constitute an unwarranted invasion of privacy because they identify individuals referenced in law enforcement records and the release of this information would not shed light on an agency's performance of its statutory duties.

Exemption 7(E) protects law enforcement records if their release would disclose techniques and procedures for law enforcement investigation or prosecutions or would disclose guidelines for law enforcement investigations or prosecutions if the disclosure could reasonably be expected to risk circumvention of the law. For the materials that have been withheld under 7(E), we have determined that they are procedures for law enforcement investigations or prosecutions.

We reasonably foresee that disclosure would harm an interest protected by one or more of the nine exemptions to the FOIA's general rule of disclosure.

Jeffrey Scott, Attorney-Advisor, in the Office of the Solicitor, was consulted in reaching this decision. Tonya Kirksey, Government Information Specialist, Office of the Secretary FOIA Office, is responsible for this partial grant.

Appeals

Because this is an interim response to your request, we will provide notice of your appeal rights in our final response letter.

Conclusion

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of FOIA. *See* 5 U.S.C. 552(c). This response is limited to those records that are subject to the requirements of 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.

The 2007 FOIA amendments created the Office of Government Information Services (OGIS) to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. You may contact OGIS in any of the following ways:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road - OGIS
College Park, MD 20740-6001
E-mail: ogis@nara.gov
Web: https://www.archives.gov/ogis
Telephone: 202-741-5770
Fax: 202-741-5769
Toll-free: 1-877-684-6448

Please note that using OGIS services does not affect the timing of filing an appeal with the Department's FOIA & Privacy Act Appeals Officer. If you have any questions about our response to your request, you may contact us by phone at 202-513-0765, by fax at 202-219-2374, by email at OS-foia@ios.doi.gov, or by mail at U.S. Department of the Interior, 1849 C St, N.W., Office of the Solicitor, Washington, D.C. 20240.

Contact information for the Department's FOIA Public Liaison, who you may also seek dispute resolution services from, is available at *https://www.doi.gov/foia/foiacenters.*

Sincerely,

TONYA KIRKSEY
Digitally signed by TONYA KIRKSEY
Date: 2022.04.13 08:41:34 -04'00'

Tonya Kirksey
FOIA Office
Office of the Secretary

Electronic Enclosure