



U.S. Department of Justice

National Security Division

Washington, D.C. 20530

August 20, 2019

Matt Ehling
Public Record Media
2375 University Avenue West, Suite 200
St. Paul, MN 55114

Re: NSD FOIA/PA #17-227
PRM v. DOJ, 18-cv-01052

Dear Mr. Ehling:

This is the National Security Division's (NSD) supplemental final response to your Freedom of Information Act (FOIA) request dated May 25, 2017 and received by NSD on June 6, 2017, seeking records:

"...produced, transmitted, and/or maintained by your agency between July 12, 2013 and January 23, 2017:

Any and all DOJ policies and practices governing the use of law enforcement tools, including subpoenas, court orders, and search warrants, to obtain information or records from or concerning members of the news media in criminal and civil investigations."

"...produced, transmitted, received, and/or maintained by your agency between January 23, 2017 and May 25, 2017:

Any and all correspondence and/or memoranda (in written or electronic form) relating to modifications or proposed modifications to DOJ policies and practices governing the use of law enforcement tools, including subpoenas, court orders, and search warrants, to obtain information or records from or concerning members of the news media in criminal and civil investigations."

"...produced, transmitted, received, and/or maintained by your agency between January 23, 2017 and May 25, 2017:

Any and all correspondence (in written or electronic form) between staff members of the White House, including, but not limited to, staff of the Executive Office of the President and/or the President of the United States, and staff members of your agency related to the prosecution and/or potential prosecution of journalists under the provisions of the Espionage Act (18 U.S.C. § 793)."

"...produced, transmitted, received, and/or maintained by your agency between January 23, 2017 and May 25, 2017:

Any and all memoranda and/or legal opinions (including legal opinions constituting final determination of policy and/or final opinions that are post-decisional in nature) related to the prosecution and/or potential prosecution of journalists under the provisions of the Espionage Act (18 U.S.C. § 793)."

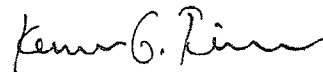
Pursuant to an agreement reached between the parties on May 31, 2019, NSD agreed to conduct additional records searches based on specific parameters proposed by PRM. See Joint Status Report, May 31, 2019, ECF No 21.

In response to this agreement, NSD conducted records searches of NSD's Office of Law and Policy, and located two additional records responsive to your request. We have processed these documents under the FOIA and have determined to withhold the records in full, as described on the attached schedule, pursuant to Exemption 5 of the FOIA, 5 U.S.C. 552 (b)(5), which pertains to certain inter- and intra-agency communications protected by the attorney work-product and deliberative process privileges. Although one of these responsive records was not within the date range of your request, NSD FOIA considers this record responsive to your request because it was attached to a responsive email that does fall within the date range.

For your information, Congress excluded three discrete categories of law enforcement information and national security records from the requirements of the FOIA. See 5 U.S.C. §552(c). This response is limited to those records that are subject to the requirements of the FOIA. This is 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 Jeremy Simon of the United States Attorney's Office for the District of Columbia at [REDACTED]

Sincerely,



Kevin G. Tiernan
Records and FOIA

SCHEDULE OF RECORDS WITHHELD IN FULL
(Refer to Body of Letter for Full Description of Each Exemption)

1. Email from Brad Wiegmann, Deputy Assistant Attorney General for Law and Policy to Mary McCord, Acting Assistant Attorney General for National Security and George Toscas, Deputy Assistant Attorney General; 4/7/17; 1 page.
Withheld in full pursuant to 5 U.S.C. 552(b)(5).

2. Memorandum for the Deputy Attorney General from David Kris, Assistant Attorney General for National Security regarding Potential Changes to the Espionage Statutes; 2/11/11; 15 pages.
Withheld in full pursuant to 5 U.S.C. 552(b)(5).