

**Privacy International v. FBI, et. al.**

Case No.: (18-cv-01488)

U.S. Immigration and Customs Enforcement *Vaughn* Index

| Entry Number | Page Numbers          | Withholding: Full/Partial | Description of Records and Redactions, and Reasons for Redactions                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Exemption(s) Applied to Redactions                                                                                                   |
|--------------|-----------------------|---------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------|
| 1            | Pages 44-57 and 63-68 | Full                      | <p><b>Emails Related to an Ongoing Criminal Investigation/Case</b></p> <p><b>Redactions:</b> The information withheld on these pages consists of emails between Homeland Security Investigations (HSI) Special Agents and attorneys with the ICE Office of the Principal Legal Advisor (OPLA) about an on-going and active criminal investigation/case. The emails are dated between December 16 and December 27, 2016. The HSI Special Agents are seeking legal advice from the OPLA attorneys who provide legal advice back to the HSI Special Agents regarding the possible use of an investigative technique to remotely access an electronic device as part of a criminal investigation/case. The HSI Special Agents are working with the United States Attorney's Office and the Assistant U.S. Attorney on the case sought a warrant under Rule 41(b)(6)(A) which was signed by a Magistrate Judge after the advice was sought and received by the HSI Special Agents from the OPLA attorneys.</p> <p><b>Reason:</b> FOIA Exemption (b)(5): The information being withheld contains attorney-client privileged information that was shared between Homeland Security Investigations (HSI) Special Agents and attorneys with the ICE Office of the Principal Legal Advisor (OPLA). Specifically, HSI asked OPLA for legal advice, and the discussion is protected from disclosure pursuant to the attorney-client privilege, to include the facts or hypotheticals divulged by HSI to OPLA, as well as the opinions, advice, and recommendations given by OPLA to HSI based upon, and thus reflecting upon, those facts or hypotheticals. The purpose of this FOIA Exemption is to protect the confidential communications between an attorney and his client relating to a legal matter for which the client has sought professional advice.</p> <p>FOIA Exemptions (b)(6) &amp; (b)(7)(C): The disclosure of the names of third parties could reasonably be expected to constitute an unwarranted invasion of the personal privacy interests in: not being associated unwarrantedly with alleged criminal activity; being free from harassment, criticism, intimidation, legal consequences, economic reprisals, embarrassment, undue public</p> | Privacy Act 5 U.S.C. § 552a (j)(2) and the Freedom of Information Act 5 U.S.C. § 552 (b)(5), (b)(6), (b)(7)(C), (b)(7)(A), (b)(7)(E) |

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|  |  | <p>attention, physical harm, and derogatory inferences and suspicion; and controlling how communications about them are communicated to others. The disclosure of this personal identifiable information (“PII”) serves no public benefit and would not assist the public in understanding how the agency is carrying out its statutory responsibilities. Furthermore, the privacy interest in this PII outweighs any minimal public interest that could possibly exist in the disclosure of this information. Further, disclosure of such information would not shed light on ICE operations and activities. There is no public interest to be served by releasing the identities or other personally identifiable information of third parties. Finally, third parties identified in the records have not consented to the disclosure of their PII.</p> <p>The disclosure of the names of agency special agents and attorneys could reasonably be expected to constitute an unwarranted invasion of personal privacy by conceivably subjecting the ICE special agents and attorneys to harassment and annoyance in conducting their official duties and in their private lives; could place them in danger as individuals targeted by law enforcement may begrudge agents for an indefinite time period and seek revenge; and disclosure could minimize the special agents’ effectiveness in conducting future investigations. The disclosure of this PII serves no public benefit and would not assist the public in understanding how the agency is carrying out its statutory responsibilities. Furthermore, the privacy interest in this PII outweighs any minimal public interest that could possibly exist in the disclosure of this information.</p> <p>FOIA Exemption (b)(7)(A): The emails are part of an active and ongoing criminal investigation/case involving HSI Special Agents and the United States Attorney’s Office. Disclosure of the contents of the emails would reasonably be expected to cause an articulable harm to that law enforcement proceeding. The HSI Special Agent handling the criminal case confirmed that the case was still active and releasing this information would harm the investigation/case on January 10, 2020.</p> <p>FOIA Exemption (b)(7)(E): The disclosure of the contents of the emails, including the legal advice sought and received, would reveal techniques and/or procedures for law enforcement investigations or prosecutions, or disclose guidelines for law enforcement investigations or prosecutions which could reasonably be expected to risk circumvention of the law. Disclosure of these techniques and practices could permit people seeking to violate or circumvent the law by taking proactive steps to counter operational and investigative</p> |  |
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|  |  |  | <p>actions taken by ICE during enforcement and criminal operations. The disclosure of this information serves no public benefit and would not assist the public in understanding how the agency is carrying out its statutory responsibilities and the law enforcement techniques and procedures contained in the emails are not commonly known.</p> <p>Privacy Act (PA) 5 U.S.C. § 552a (j)(2) was applied to the content of the emails, personally identifying information related to Federal employees, law enforcement agents and third parties, and the details of an active and ongoing criminal investigation/case. These records are maintained in the External Investigations System of Records and have been exempted from the disclosure provisions of the Privacy Act pursuant to exemption (j)(2) as described in the System of Records notices identified as DHS/ICE-009-External Investigations System of Records 75. Fed. Reg. 404 (January 5, 2010).</p> |  |
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