

Exhibit E



February 7, 2023

Submitted via OIP FOIA STAR Portal

Director, Office of Information Policy (OIP)
United States Department of Justice
441 G Street NW, 6th Floor
Washington, D.C. 20530

Re: FOIA APPEAL (FOIPA Request Nos.: 1577989-000 & 1577990-000)

Dear OIP Director:

This is an appeal under the Freedom of Information Act (FOIA) on behalf of Karen Lowy and Daniel Jaffe, victims of the April 22, 2022 shooting that took place at/around Edmund Burke School in Northwest Washington D.C. (the "Shooting"). The FOIA request that I submitted on behalf of Ms. Lowy and Mr. Jaffe to the Federal Bureau of Investigation ("FBI") on July 28, 2022 (the "Request") was assigned four identification numbers by the FBI: 1577989-000 (Subject: Jaffe, Daniel Mark); 1577990-000 (Subject: Lowy, Karen); 1554681-000 (Subject: Jaffe, Daniel)¹; and 1554680-000 (Subject: Spencer, Raymond). I received responses to the Request in substantively identical letters from the FBI dated January 11, 2023, which refused, in response to request numbers 1577989-000 and 1577990-000, to release any records *about my clients to my clients* based on claimed personal privacy exemptions.²

I. Background Of The Request & The FBI's Blanket Denial.

The Request sought records concerning several categories of documents relating to the Shooting, including (i) documents and information related to any weapons used by or in the suspect Raymond Spencer's (the "Suspect") possession and recovered in connection with the incident; (ii) documents and information related to any ammunition used by or in the Suspect's possession and recovered in connection with the Shooting; (iii) documents and information related to any other equipment used by or in the Suspect's possession and recovered in connection with the Shooting, including but not limited to supposed "sniper nest" equipment, M-Lok, high-capacity drum, rifle scope and tripod to prop the weapons, recovered in connection with the incident; (iv) documents and information concerning the Shooting and the Suspect collected from or provided by the Ava Van Ness; (v) documents and information collected, received, and/or provided by any other law enforcement agency to the FBI in connection with the FBI's investigation into the Shooting and the Suspect; (vi) all video and body cam footage obtained in connection with the investigation into the Shooting and/or filmed by any law enforcement agency during the incident; and (vii) all reports and summaries generated by the FBI or by other law enforcement agencies and subsequently provided to or shared with the FBI in connection with the investigation into the Shooting or Suspect. See Exhibit A (FOIA

¹ The FBI's FOIA Request status checking website at vault.fbi.gov provides that this request number has also been closed. I did not receive any correspondence regarding the final closure of this request number or any information explaining why the FBI opened an additional request number listing Mr. Jaffe as the subject.

² The FBI also issued a blanket denial of request number 1554680-000 regarding Raymond Spencer, the deceased suspect who perpetrated the Shooting, on the claimed basis of the exemption in 5 U.S.C. § 552(b)(7)(A). That improper denial is addressed FOIA Appeal A-2023-00715.

Request).

Though information about Ms. Lowy and/or Mr. Jaffe may appear in records responsive to the Request because Ms. Lowy was one of the survivors of and was gravely wounded during the Shooting, the Request did not explicitly seek information about Ms. Lowy and Mr. Jaffe. In fact, Ms. Lowy and Mr. Jaffe are only mentioned in the Request as my clients on whose behalf the Request is made. *See* Ex. A.

In response to correspondence with and a request from the FBI's FOIPA Questions (FOIPAQUESTIONS@FBI.GOV) email address, I submitted the U.S. Department of Justice's Certification of Identity Forms for Ms. Lowy and Mr. Jaffe on January 6, 2023 and stated that my clients "provid[e] authorization to release any records pertaining to them." *See* Exhibit B (Jan. 6, 2023 Email).

Nevertheless, on January 11, 2023, the FBI denied the Request as it pertains to my clients in its entirety on the basis that the "requested records [concern] . . . one or more third party individuals." The FBI thus refused to confirm or deny the existence of such records under 5 U.S.C. § 552(b)(6) and (b)(7)(C) which, per the FBI's denial letter, exempt from disclosure records that "could reasonably be expected to constitute an unwarranted invasion of personal privacy." *See* Exhibit C (Jan. 11, 2023 FOIA Denial Letters).

II. There Is A Strong Public Interest In The Information Sought By The Request.

The public has a strong interest in accessing the information sought in the Request, which pertains to a high-profile mass shooting that directly impacted my clients and implicates the public safety of District of Columbia residents, visitors, and workers.

The Request at issue was made on behalf of victims of the Shooting—one of whom was shot multiple times and gravely injured. Her life and the lives of her family members will never be the same as a result. Tragically, this is the case for millions of Americans. Ms. Lowy and Mr. Jaffe have a particularly strong interest in the disclosure of the information sought in the Request as they navigate and grapple with the aftermath of the Shooting. CDC data show that guns are now the leading cause of death of children in America.³ More than 20,000 people were killed by firearms in each of 2021 and 2022—and tens of thousands more died by suicide using a firearm.⁴ There already have been more than 4,000 gun-related deaths in 2023, and we are only a month into the year.⁵ So far this year, there have been more mass shootings in America than there have been days.⁶ And in addition to the tens of thousands of people killed by guns in the United States every year, there are many thousands more victims of gun violence—like my clients and their family—who suffer serious and long-lasting physical and emotional trauma. The gun violence epidemic has also been an area of focus for the U.S. House Oversight Committee, which has investigated and held several hearings on the issue of gun violence in the United States this summer alone on the practices and

³ *See* <https://www.nejm.org/doi/full/10.1056/nejmc2201761>.

⁴ <https://www.gunviolencearchive.org/past-tolls>.

⁵ <https://www.gunviolencearchive.org/>.

⁶ <https://www.gunviolencearchive.org/>.

profits of gun manufacturers.⁷ In sum, this is an issue of immense public interest and importance.

III. The FBI Has Failed to Carry Its Burden To Justify Denial Of The Request Under The Personal Privacy Exemption.

The FBI cannot properly withhold these records on the basis that disclosing documents responsive to the Request would “constitute an unwarranted invasion of personal privacy.” *See* Ex. C (Jan. 11, 2023 FOIA Denial Letters). The “subjects” of these request numbers—Ms. Lowy and Mr. Jaffe—are the individuals making the Request and have provided identity certification forms authorizing the release of any information about them. Notwithstanding that the deceased shooter, Raymond Spencer, is the subject of a different request number, whatever minimal privacy interest he may retain after death plainly does not outweigh the interests of the living victims of the Shooting. *See, e.g., McDonnell v. United States*, 4 F.3d 1227, 1255 (3d Cir. 1993) (finding “no competing privacy interest” where individual at issue was deceased).

IV. The FBI Has Failed To Carry Its Burden To Justify Denial Of The Request Under Exemption (b)(7)(C).

FOIA mandates that “[a]ny reasonably segregable portion of a record shall be provided . . . after deletion of the portions which are exempt.” 5 U.S.C. § 552(b). While there may be some narrow portion of the FBI’s investigative file that is properly subject to withholding on the basis of personal privacy concerns of victims other than my clients and other witnesses, the exemption the FBI has invoked does not justify blanket withholding of *all* information pertaining to the investigation into this high-profile Shooting.

Even if the FBI is concerned about privacy interests of third parties other than my clients (who, as discussed above, have consented to the release of any information about them), the lack of privacy interests sufficient to justify withholding of the entire file is underscored by the fact that there is information concerning the Shooting and Spencer already in the public domain, including through several briefings and press conferences provided by various law enforcement agencies in the days following the Shooting. It thus is necessarily the case that there is information in the investigative file that is not properly subject to withholding. In fact, the Fairfax County Police Department, which was also involved in responding to and investigating the Shooting, agreed to (and did) turn over its entire investigative file in response to a Virginia FOIA request similar to that at issue here, mitigating privacy concerns by applying limited redactions to names and addresses. *See* Exhibit D (Fairfax County PD FOIA Response).

To justify the withholding of any information pursuant to 5 U.S.C. § 552(b)(7)(C), an agency and any reviewing court must “weigh the public interest in the release of information against the privacy interest in nondisclosure.” *See U.S. Dep’t of Just. v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749, 762 (1989). This weighing “requires the courts to balance the competing interests in privacy and disclosure.” *Judicial Watch, Inc. v. Nat’l Archives & Records Admin.*, 876 F.3d 346, 349 (D.C. Cir. 2017) (quoting *Nat’l Archives & Records Admin. v. Favish*, 541 U.S. 157, 171 (2004)). As explained, the FBI has claimed to invoke this exemption on my clients’ behalf to avoid disclosing any information contrary to the wishes of the very people whose interests it claims to be asserting and in spite of the public interest in disclosure of information about this mass shooting.

* * *

⁷ <https://oversightdemocrats.house.gov/legislation/hearings/examining-the-practices-and-profits-of-gun-manufacturers>.

My clients were told in June 2022 by a D.C. Metropolitan Police Department Detective that several of the law enforcement entities involved in responding to and investigating the Shooting had completed their investigations and their written reports, but they have not been provided these reports or any other additional information since then. They are – understandably – heartbroken and frustrated at the lack of cooperation they have received from the FBI and other law enforcement agencies in getting information about what happened to them. They deserve answers to their questions.

Should you have any questions about handling this appeal, please do not hesitate to contact me at the telephone number or email address below. Thank you for your consideration of this appeal.

Regards,

A handwritten signature in black ink that reads "K. Ali". The signature is written in a cursive, slightly stylized font.

Kathryn M. Ali
Partner
katie.ali@alilockwood.com
(202) 651-2476

Exhibit A



July 28, 2022

Via FBI FOIA Portal

Federal Bureau of Investigation
Attn: FOIPA Request
200 Constitution Drive
Winchester, VA 22602

Re: FOIA Request Concerning April 22, 2022 shooting at/around Edmund Burke School

This is a request under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, on behalf of Daniel Jaffe and Karen Lowy concerning the April 22, 2022 shooting that took place at/around Edmund Burke School in Northwest Washington D.C. (the "Incident"). So far, Raymond Spencer (the "Suspect") has been identified as the only suspect responsible for the Incident. Mr. Spencer is deceased.¹

We request the following:

- Documents and information related to any weapons used by or in the Suspect's possession and recovered in connection with the Incident, including documents concerning: (i) the make and model of any such weapons; (ii) whether and how any of these weapons had been modified in any way; (iii) whether any of these weapons were confirmed to have been discharged during the Incident; and (iv) the sale or purchase of any of these weapons, including dates of purchase(s), sales receipts and/or invoices or purchase orders, location of purchase(s) and name of seller or retailer, price and/or purchase amounts, and method of payment.
- Documents and information related to any ammunition used by or in the Suspect's possession and recovered in connection with the Incident, including documents concerning: (i) the make and model of any such ammunition; (ii) whether any of this ammunition was confirmed to have been discharged during the Incident; and (iii) the sale or purchase of any of this ammunition, including dates of purchase(s), sales receipts and/or invoices or purchase orders, location of purchase(s) and name of seller or retailer, price and/or purchase amounts, and method of payment.
- Documents and information related to any other equipment used by or in the Suspect's possession and recovered in connection with the Incident, including but not limited to supposed "sniper nest" equipment, M-Lok, high-capacity drum, rifle scope and tripod to prop the weapons, recovered in connection with the Incident, including documents concerning: (i) the make and model of any such equipment and (ii) the sale

¹ See, e.g., <https://www.washingtonpost.com/dc-md-va/2022/04/23/raymond-spencer-dc-shooting/> (stating that Mr. Spencer was found dead in an apartment on April 23, 2022).

or purchase of any of this equipment, including dates of purchase(s), sales receipts and/or invoices or purchase orders, location of purchase(s) and name of seller or retailer, price and/or purchase amounts, and method of payment.

- All documents and information concerning the Incident and the Suspect collected from or provided by the Ava Van Ness located at 2950 Van Ness Street NW, Washington, D.C. 20008.
- All documents and information collected, received, and/or provided by any other law enforcement agency to the FBI in connection with the FBI's investigation into the Incident and the Suspect.
- All video and body cam footage obtained in connection with the investigation into the Incident and/or filmed by any law enforcement agency during the Incident.
- All reports and summaries generated by the FBI or generated by other law enforcement agencies and subsequently provided to or shared with the FBI in connection with the investigation into the Incident or the Suspect.

Regards,

Handwritten signature of Kathryn M. Ali in black ink.

Kathryn M. Ali
Partner
katie.ali@alilockwood.com
(202) 651-2476

Exhibit B

Katie Ali

From: Katie Ali
Sent: Friday, January 6, 2023 9:38 AM
To: FOIPAQUESTIONS@FBI.GOV
Cc: Liz Lockwood
Subject: RE: Request No. 1554681-000, Jaffe
Attachments: DOJ Certification of Identity Form DMJ.pdf; DOJ Certification of Identity Form KL.pdf

Good morning,

I can confirm we received the December 16 correspondence.

I am attaching the certification forms for Mr. Jaffe and Ms. Lowy, the requesters in this matter, providing authorization to release any records pertaining to them.

Thank you,
Katie

From: FOIPAQUESTIONS@FBI.GOV <FOIPAQUESTIONS@FBI.GOV>
Sent: Wednesday, January 4, 2023 1:27 PM
To: Katie Ali <katie.ali@alilockwood.com>
Subject: RE: Request No. 1554681-000, Jaffe

Good afternoon,

Thank you for contacting foipaquestions@fbi.gov.

Please note the request you submitted with the FBI has been opened under two different FOIPA numbers.

FOIA 1554680-00 subject: Raymond Spencer – correspondence was mailed to you on December 16, 2022 advising the material you requested is located in an investigative file which is exempt from disclosure pursuant to 5 U.S.C code 552(b)(7)(A). Can you please confirm if you received this correspondence? We did receive the proof of death for this subject.

FOIA 1554681-000 subject Daniel Jaffee et al – this is the request that sufficient proof of death or authorization is required for greater access to information. We have not received the necessary documentation required to continue with this request.

Respectfully,

Public Information Officer
FBI - Information Management Division
200 Constitution Drive
Winchester, VA 22602
O: (540) 868-4593
E: foipaquestions@fbi.gov

Do you have further questions about the FOI/PA process? Visit us at <http://www.fbi.gov/foia>

Please check the status of your request online at <https://vault.fbi.gov/fdps-1/@@search-fdps> Status updates are performed on a weekly basis.

Note: This is a non-emergency email address. If this is an emergency, please call 911 directly. If you need to report a tip for immediate action, please contact FBI Tips at <http://tips.fbi.gov/> or reach out to your local field office.

From: Katie Ali <katie.ali@alilockwood.com>
Sent: Wednesday, December 14, 2022 10:31 AM
To: FOIPAQUESTIONS <FOIPAQUESTIONS@FBI.GOV>
Cc: Liz Lockwood <liz.lockwood@alilockwood.com>
Subject: [EXTERNAL EMAIL] - FW: Request No. 1554681-000, Jaffe

Good morning,

Thank you for your email. I have two questions that I am looking for assistance with, one process-related and one more substantive.

On the process question, I understand that while we served a single FOIA request, you have split it into two separate requests (Request No. 1554681-000 and Request No. Request No. 1554680-000). Can you please provide a status update as to both requests?

With respect to the substance, the correspondence included in the chain below (which I still have not received in hard copy despite it apparently having been sent in November) requests that we provide a certificate of identity for Raymond Spencer. However, it also states that we "may receive greater access to these records (if they exist) by providing . . . (2) proof of death (i.e., proof that your subject is deceased)." The correspondence further states that "[a]cceptable forms of proof of death include; obituaries, death certificates, recognized sources that can be documented, written media, Who's Who in America, FBI file that indicates person is deceased or the Social Security Death Index." I am attaching a series of news articles that clearly state that Mr. Spencer is deceased and would like to confirm that this is sufficient proof of death.

If it would be helpful to discuss, I would ask that you please give me a call (cell: 858-354-2597) or respond by email with some times when you are available to discuss.

Thank you,
Katie

From: FOIPAQUESTIONS@FBI.GOV <FOIPAQUESTIONS@FBI.GOV>
Sent: Tuesday, December 13, 2022 2:59 PM
To: Katie Ali <katie.ali@alilockwood.com>
Subject: RE: Request No. 1554681-000, Jaffe

Good afternoon,

This email is in response to the voicemail you left with our office. How may we assist you?

Public Information Officer
FBI - Information Management Division
200 Constitution Drive
Winchester, VA 22602

O: (540) 868-4593
E: foipaquestions@fbi.gov

Do you have further questions about the FOI/PA process? Visit us at <http://www.fbi.gov/foia>

Please check the status of your request online at <https://vault.fbi.gov/fdps-1/@@search-fdps> Status updates are performed on a weekly basis.

Note: This is a non-emergency email address. If this is an emergency, please call 911 directly. If you need to report a tip for immediate action, please contact FBI Tips at <http://tips.fbi.gov/> or reach out to your local field office.

From: FOIPAQUESTIONS
Sent: Wednesday, December 7, 2022 11:02 AM
To: Katie Ali <katie.ali@alilockwood.com>
Subject: RE: Request No. 1554681-000, Jaffe

Good morning,

Thank you for contacting foipaquestions@fbi.gov. Unfortunately, this information is unable to be sent electronically however, the correspondence provides the below information.

You have indicated interest in requesting records concerning one or more third party individuals. The FBI recognizes an important privacy interest in the requested information. You may receive greater access to these records (if they exist) by providing one of the following: (1) an authorization and consent from the individual(s) (i.e., express authorization and consent of the third party); (2) proof of death (i.e., proof that your subject is deceased); or (3) a justification that the public interest in disclosure outweighs personal privacy (i.e., a clear demonstration that the public interest in disclosure outweighs personal property interests).

The U. S. Department of Justice CERTIFICATION OF IDENTITY (Authorization to Release Information to Another Person)-FORM DOJ-361 can be used to provide consent. Note-please provide the following information on the OPTIONAL: Authorization to Release Information to Another Person line: Your name, title/business (if applicable) and a complete and current mailing address. Acceptable forms of proof of death include; obituaries, death certificates, recognized sources that can be documented, written media, Who's Who in America, FBI file that indicates person is deceased or the Social Security Death Index. A waiver or proof of death is not required if date of birth is 100 years ago or greater. Note-a web link in itself does not satisfy proof of death.

Please return the form or letter to one of the following: by mail: FBI, Attn: FOIPA Request, 200 Constitution Drive, Winchester, VA 22602-4843, or by fax: (540) 868-4997. You may submit an attachment listing additional information that may aid in locating responsive records. Please place your name and contact information on the attachment. Alternatively, you may utilize our eFOIPA portal (<https://efoia.fbi.gov>) to submit your request electronically. The portal is available 24/7.

Respectfully,

Public Information Officer
FBI - Information Management Division
200 Constitution Drive
Winchester, VA 22602

O: (540) 868-4593
E: foipaquestions@fbi.gov

Do you have further questions about the FOI/PA process? Visit us at <http://www.fbi.gov/foia>

Please check the status of your request online at <https://vault.fbi.gov/fdps-1/@@search-fdps> Status updates are performed on a weekly basis.

Note: This is a non-emergency email address. If this is an emergency, please call 911 directly. If you need to report a tip for immediate action, please contact FBI Tips at <http://tips.fbi.gov/> or reach out to your local field office.

From: Katie Ali <katie.ali@alilockwood.com>
Sent: Wednesday, December 7, 2022 10:26 AM
To: FOIPAQUESTIONS <FOIPAQUESTIONS@FBI.GOV>
Cc: Liz Lockwood <liz.lockwood@alilockwood.com>
Subject: [EXTERNAL EMAIL] - RE: Request No. 1554681-000, Jaffe

Good morning,

I still have not received the letter below (which was apparently mailed on November 22, 2022). Is it possible for it to be sent by email instead?

Thank you,
Katie

From: FOIPAQUESTIONS@FBI.GOV <FOIPAQUESTIONS@FBI.GOV>
Sent: Wednesday, November 30, 2022 8:47 AM
To: Katie Ali <katie.ali@alilockwood.com>
Subject: RE: Request No. 1554681-000, Jaffe

Good morning,

Thank you for contacting foipaquestions@fbi.gov. Correspondence in response to FOIA 1554680-000, subject Raymond Spencer, was mailed on November 22, 2022. The letter you received is in reference to FOIA 1554681-000, subject Daniel Jaffe.

Respectfully,

Public Information Officer
FBI - Information Management Division
200 Constitution Drive
Winchester, VA 22602
O: (540) 868-4593
E: foipaquestions@fbi.gov

Do you have further questions about the FOI/PA process? Visit us at <http://www.fbi.gov/foia>

Please check the status of your request online at <https://vault.fbi.gov/fdps-1/@@search-fdps> Status updates are performed on a weekly basis.

Note: This is a non-emergency email address. If this is an emergency, please call 911 directly. If you need to report a tip for immediate action, please contact FBI Tips at <http://tips.fbi.gov/> or reach out to your local field office.

From: Katie Ali <katie.ali@alilockwood.com>
Sent: Tuesday, November 29, 2022 7:49 PM
To: FOIPAQUESTIONS <FOIPAQUESTIONS@FBI.GOV>
Cc: Liz Lockwood <liz.lockwood@alilockwood.com>
Subject: [EXTERNAL EMAIL] - RE: Request No. 1554681-000, Jaffe

Hello –

I am writing to follow up on the below. Can you please confirm receipt and let me know if any follow up is required?

Thank you,
Katie

From: Katie Ali
Sent: Wednesday, November 16, 2022 12:08 PM
To: FOIPAQUESTIONS@FBI.GOV
Cc: Liz Lockwood <liz.lockwood@alilockwood.com>
Subject: Request No. 1554681-000, Jaffe

Dear FBI FOIA Public Liaison,

I am writing in response to the attached letter, which I received in response to my July 28 FOIA request. FBI's October 7 response states that because the "acknowledgment of the existence of FBI records or third party individuals could reasonably be expected to constitute an unwarranted invasion of personal privacy" of a third party, the FBI's "standard response" is to close the request. The letter further states that "[t]o reopen your request, please complete and return the attached Certification of Identity Form."

I am writing because the third party at issue, Raymond Spencer, is deceased. Evidence of his death is attached (see Ex. A, attached), and another federal agency – the United States Coast Guard – recently acknowledged that Mr. Spencer is deceased in response to a separate FOIA inquiry (also attached). I am writing to ask that you please accept proof of Mr. Spencer's death as a substitute for completing the "Certification of Identity Form." Please call me at 858-354-2597 with any questions.

Thank you,
Katie

Katie Ali
PARTNER

Ali & Lockwood LLP
300 New Jersey Avenue NW
Suite 900
Washington, D.C. 20001

Cell: [REDACTED]
Direct: (202) 651-2476
Email: katie.ali@alilockwood.com

www.alilockwood.com

Ali & Lockwood LLP is a limited liability partnership registered in the District of Columbia.

Exhibit C



Federal Bureau of Investigation
Washington, D.C. 20535

January 11, 2023

MS. KATIE ALI
SUITE 900
300 NEW JERSEY AVENUE NORTH WEST
WASHINGTON, DC 20001

Request No.: 1577989-000
Subject: JAFFE, DANIEL MARK

Dear Ms. Ali:

This acknowledges receipt of your Freedom of Information Act (FOIA) request to the FBI. The FOIPA Request Number listed above has been assigned to your request. Below you will find information relevant to your request. Please read each paragraph carefully.

You have requested records on one or more third party individuals. Please be advised the FBI will neither confirm nor deny the existence of such records pursuant to FOIA exemptions (b)(6) and (b)(7)(C), 5 U.S.C. §§ 552 (b)(6) and (b)(7)(C). The mere acknowledgement of the existence of FBI records on third party individuals could reasonably be expected to constitute an unwarranted invasion of personal privacy. This is our standard response to such requests and should not be taken to mean that records do, or do not, exist. As a result, your request has been closed. Please visit www.fbi.gov, select "Services," "Information Management," and "Freedom of Information/Privacy Act" for more information about making requests for records on third party individuals (living or deceased).

If you submitted your request through the FBI's eFOIPA portal and you are receiving correspondence through standard mail, it was determined your request did not meet the eFOIPA terms of service.

For questions regarding our determinations, visit the www.fbi.gov/foia website under "Contact Us." The FOIPA Request number listed above has been assigned to your request. Please use this number in all correspondence concerning your request.

If you are not satisfied with the Federal Bureau of Investigation'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 ninety (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." Please cite the FOIPA Request Number assigned to your request so it may be easily identified.

You may seek dispute resolution services by emailing the FBI's FOIA Public Liaison at foipaquestions@fbi.gov. The subject heading should clearly state "Dispute Resolution Services." Please also cite the FOIPA Request Number assigned to your request so it may be easily identified. You may also contact the Office of Government Information Services (OGIS). 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.

Enclosed for your information is a copy of the Explanation of Exemptions.

Sincerely,

A handwritten signature in black ink, appearing to read "M. G. Seidel", is written over the typed name.

Michael G. Seidel
Section Chief,
Record/Information
Dissemination Section
Information Management Division

EXPLANATION OF EXEMPTIONS

SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552

- (b)(1) (A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified to such Executive order;
- (b)(2) related solely to the internal personnel rules and practices of an agency;
- (b)(3) specifically exempted from disclosure by statute (other than section 552b of this title), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;
- (b)(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;
- (b)(5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;
- (b)(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;
- (b)(7) records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or (F) could reasonably be expected to endanger the life or physical safety of any individual;
- (b)(8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or
- (b)(9) geological and geophysical information and data, including maps, concerning wells.

SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552a

- (d)(5) information compiled in reasonable anticipation of a civil action proceeding;
- (j)(2) material reporting investigative efforts pertaining to the enforcement of criminal law including efforts to prevent, control, or reduce crime or apprehend criminals;
- (k)(1) information which is currently and properly classified pursuant to an Executive order in the interest of the national defense or foreign policy, for example, information involving intelligence sources or methods;
- (k)(2) investigatory material compiled for law enforcement purposes, other than criminal, which did not result in loss of a right, benefit or privilege under Federal programs, or which would identify a source who furnished information pursuant to a promise that his/her identity would be held in confidence;
- (k)(3) material maintained in connection with providing protective services to the President of the United States or any other individual pursuant to the authority of Title 18, United States Code, Section 3056;
- (k)(4) required by statute to be maintained and used solely as statistical records;
- (k)(5) investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment or for access to classified information, the disclosure of which would reveal the identity of the person who furnished information pursuant to a promise that his/her identity would be held in confidence;
- (k)(6) testing or examination material used to determine individual qualifications for appointment or promotion in Federal Government service the release of which would compromise the testing or examination process;
- (k)(7) material used to determine potential for promotion in the armed services, the disclosure of which would reveal the identity of the person who furnished the material pursuant to a promise that his/her identity would be held in confidence.



Federal Bureau of Investigation
Washington, D.C. 20535

January 11, 2023

MS. KATIE ALI
SUITE 900
300 NEW JERSEY AVENUE NORTH WEST
WASHINGTON, DC 20001

Request No.: 1577990-000
Subject: LOWY, KAREN

Dear Ms. Ali:

This acknowledges receipt of your Freedom of Information Act (FOIA) request to the FBI. The FOIPA Request Number listed above has been assigned to your request. Below you will find information relevant to your request. Please read each paragraph carefully.

You have requested records on one or more third party individuals. Please be advised the FBI will neither confirm nor deny the existence of such records pursuant to FOIA exemptions (b)(6) and (b)(7)(C), 5 U.S.C. §§ 552 (b)(6) and (b)(7)(C). The mere acknowledgement of the existence of FBI records on third party individuals could reasonably be expected to constitute an unwarranted invasion of personal privacy. This is our standard response to such requests and should not be taken to mean that records do, or do not, exist. As a result, your request has been closed. Please visit www.fbi.gov, select "Services," "Information Management," and "Freedom of Information/Privacy Act" for more information about making requests for records on third party individuals (living or deceased).

If you submitted your request through the FBI's eFOIPA portal and you are receiving correspondence through standard mail, it was determined your request did not meet the eFOIPA terms of service.

For questions regarding our determinations, visit the www.fbi.gov/foia website under "Contact Us." The FOIPA Request number listed above has been assigned to your request. Please use this number in all correspondence concerning your request.

If you are not satisfied with the Federal Bureau of Investigation'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 ninety (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." Please cite the FOIPA Request Number assigned to your request so it may be easily identified.

You may seek dispute resolution services by emailing the FBI's FOIA Public Liaison at foipaquestions@fbi.gov. The subject heading should clearly state "Dispute Resolution Services." Please also cite the FOIPA Request Number assigned to your request so it may be easily identified. You may also contact the Office of Government Information Services (OGIS). 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.

Enclosed for your information is a copy of the Explanation of Exemptions.

Sincerely,

A handwritten signature in black ink, appearing to read "M. G. Seidel", is written over the typed name.

Michael G. Seidel
Section Chief,
Record/Information
Dissemination Section
Information Management Division

EXPLANATION OF EXEMPTIONS**SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552**

- (b)(1) (A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified to such Executive order;
- (b)(2) related solely to the internal personnel rules and practices of an agency;
- (b)(3) specifically exempted from disclosure by statute (other than section 552b of this title), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;
- (b)(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;
- (b)(5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;
- (b)(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;
- (b)(7) records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or (F) could reasonably be expected to endanger the life or physical safety of any individual;
- (b)(8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or
- (b)(9) geological and geophysical information and data, including maps, concerning wells.

SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552a

- (d)(5) information compiled in reasonable anticipation of a civil action proceeding;
- (j)(2) material reporting investigative efforts pertaining to the enforcement of criminal law including efforts to prevent, control, or reduce crime or apprehend criminals;
- (k)(1) information which is currently and properly classified pursuant to an Executive order in the interest of the national defense or foreign policy, for example, information involving intelligence sources or methods;
- (k)(2) investigatory material compiled for law enforcement purposes, other than criminal, which did not result in loss of a right, benefit or privilege under Federal programs, or which would identify a source who furnished information pursuant to a promise that his/her identity would be held in confidence;
- (k)(3) material maintained in connection with providing protective services to the President of the United States or any other individual pursuant to the authority of Title 18, United States Code, Section 3056;
- (k)(4) required by statute to be maintained and used solely as statistical records;
- (k)(5) investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment or for access to classified information, the disclosure of which would reveal the identity of the person who furnished information pursuant to a promise that his/her identity would be held in confidence;
- (k)(6) testing or examination material used to determine individual qualifications for appointment or promotion in Federal Government service the release of which would compromise the testing or examination process;
- (k)(7) material used to determine potential for promotion in the armed services, the disclosure of which would reveal the identity of the person who furnished the material pursuant to a promise that his/her identity would be held in confidence.

Exhibit D



County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods, and diverse communities of Fairfax County

Kevin Davis
Chief of Police

August 15, 2022

**Lt. Colonel
Brian J. Reilly**
*Executive Deputy
Chief of Police*

Blair Decker
20913 Waterbeach Place
Sterling, Virginia 20165
blaircw@icloud.com

**Lt. Colonel
Gun M. Lee**
*Deputy Chief of Police
for Administration*

Re: FOIA Request
Case 2022-1130031

Our Re: 22-FOIA-1179

Dear Blair Decker:

**Lt. Colonel
J. Dean Lay**
*Deputy Chief of Police
for Investigations/
Operations Support*

This letter is in response to your FOIA request. Enclosed you should find all available materials responsive to your request. Pursuant to Virginia Code Section 2.2-3706(D), all identifying information of a personal, medical, or financial nature has been redacted from the responsive material.

**Lt. Colonel
Robert A. Blakley**
*Deputy Chief of Police
for Patrol*

Please note that we are only able to release material that is owned/was created by the Fairfax County Police Department in relations to this case. Since this was a joint investigation with the Metropolitan Police Department (MPD), we are not authorized to release any information pertaining to MPD's investigation.

Anthony Guglielmi
*Director,
Public Affairs Bureau*

Additionally, a portion of the responsive materials which included tactical information and/or techniques, has been redacted pursuant to section 2.2-3706(B)(5) of the Code of Virginia. Records of law-enforcement agencies, to the extent that such records contain specific tactical plans, the disclosure of which would jeopardize the safety and security of law-enforcement personnel, or the general public may be denied.

**First Lieutenant
Daniel B. Spital**
*Commander,
Public Affairs Bureau*

You will receive a separate email shortly from Axon/Evidence.com with all responsive material. Please download the material promptly as the link will expire in 90 days.

Michael W. Cole
*Compliance Manager,
Public Affairs Bureau*

Fairfax County Police Department
12099 Government Center Parkway
Fairfax, Virginia 22035
703-246-2195, TTY 711
Facsimile 703-246-9085
www.fairfaxcounty.gov



If we can be of further assistance, please do not hesitate to contact me at (703) 246-4561 or FCPDFOIA@fairfaxcounty.gov.

Sincerely,

Michael W. Cole

Michael W. Cole, Compliance Manager
Public Affairs Bureau

MWC/saq