

Exhibit B



United States Department of the Interior

NATIONAL PARK SERVICE
1849 C Street, NW
Washington, DC 20240

October 5, 2023

Tom Jackman
3530 Queen Anne Drive
Fairfax, VA 22030
jackmant@washpost.com
(202) 302-3707

Dear Jackman:

On July 15, 2020, the Office of Public Trust (OPT) received your Freedom of Information Act (FOIA) request and assigned it the request number **DOI-NPS-2020-001608**. Please cite this number in future communications regarding your request with our office.

Your request was for the following: "I am requesting all "hazardous condition reports" or complaints filed by U.S. Police officers about the Park Police radio communication system. These are also referred to as "hazardous condition numbers." I request these reports back to 2015".

We are writing to respond to the above-requested information. Your request has been processed under the FOIA (5 U.S.C. § 552).

We are withholding approximately 21 pages in full under Exemption 6, 7(C), 7 (E), and 7(F). 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 personal information, home addresses, telephone numbers, etc. and we have determined that the individuals to whom this information pertains have a substantial privacy interest in withholding it. Additionally, you have not provided information that explains a relevant public interest under the FOIA in the disclosure of this personal information and we have determined that the disclosure of this information would shed little or no light on the performance of the agency's statutory duties. 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—[5 U.S.C. § 552\(b\)\(7\)\(A\)-\(F\)](#)

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 approximately 26 incident reports under Exemption 7 because they are protected under the following:

Exemption 7(C), [5 U.S.C. § 552\(b\)\(7\)\(C\)](#), 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), [5 U.S.C. § 552\(b\)\(7\)\(E\)](#), 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 techniques for law enforcement investigations or prosecutions,”
- “they are procedures for law enforcement investigations or prosecutions,” or
- “they are guidelines for law enforcement investigations or prosecutions whose release could reasonably be expected to risk circumvention of the law”.

Exemption 7(F), [5 U.S.C. § 552\(b\)\(7\)\(F\)](#), protects law enforcement records if their release could reasonably be expected to endanger the life or physical safety of any individual. For the materials that have been withheld under 7(F), we have determined releasing them could reasonably be expected to endanger the life or physical safety of an individual.

Amber Hagan, The Office of Public Trust, Government Information Specialist is responsible for this response. Jason Waanders, in the Office of the Solicitor was consulted regarding this decision.

We do not bill requesters for FOIA processing fees when their fees are less than \$50.00, because the cost of collection would be greater than the fee collected. See [43 C.F.R. § 2.37\(g\)](#). Therefore, there is no billable fee for the processing of this request.

You may appeal this response to the Department's FOIA/Privacy Act Appeals Officer. If you choose to appeal, the FOIA/Privacy Act Appeals Officer must receive your FOIA **no later than 90 workdays** from the date of this letter. Appeals arriving or delivered after 5 p.m. Eastern Time, Monday through Friday, will be deemed received on the next workday.

Your appeal must be made in writing. You may submit your appeal and accompanying materials to the FOIA/Privacy Act Appeals Officer by mail, courier service, fax, or email. All communications concerning your appeal should be clearly marked with the words: "FREEDOM OF INFORMATION APPEAL." You must include an explanation of why you believe the NPS's response is in error. You must also include with your appeal copies of all correspondence between you and NPS concerning your FOIA request, including your original FOIA request and NPS's response. Failure to include with your appeal all correspondence between you and NPS will result in the Department's rejection of your appeal, unless the FOIA/Privacy Act Appeals Officer determines (in the FOIA/Privacy Act Appeals Officer's sole discretion) that good cause exists to accept the defective appeal.

Please include your name and daytime telephone number (or the name and telephone number of an appropriate contact), email address and fax number (if available) in case the FOIA/Privacy Act Appeals Officer needs additional information or clarification of your appeal.

DOI FOIA/Privacy Act Appeals Office Contact Information

Department of the Interior
Office of the Solicitor
1849 C Street, N.W.
MS-6556 MIB
Washington, DC 20240
Attn: FOIA/Privacy Act Appeals Office
Telephone: (202) 208-5339
Fax: (202) 208-6677

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://ogis.archives.gov>
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.

The Office of Public Trust regrets the delay in responding to your Freedom of Information Act (FOIA) request. Please know that FOIA management is very committed to providing responses to FOIA requests and remedying the FOIA backlog. We appreciate your interest in the National Park Service. If you have any questions about our response to your request, you may contact the Office of Public Trust OPT_Trust@nps.gov.

Sincerely,

A handwritten signature in black ink, appearing to be 'K. Small', written over a horizontal line.

On behalf of, Kimberly Small
Information Branch Officer for the Office of Public Trust (OPT)
National Park Service Visitor and Resource Protection