



U.S. Department of Justice

Office of Legal Counsel

Washington, D.C. 20530

May 11, 2020

Ben Berwick
Counsel
The Protect Democracy Project
ben.berwick@protectdemocracy.org

**Re: FOIA Tracking No. FY20-031;
Protect Democracy Project v. U.S. Dep't of Justice, D.D.C. No. 20-cv-0172**

Dear Mr. Berwick:

This letter partially responds to your January 3, 2020 Freedom of Information Act ("FOIA") request to the Office of Legal Counsel ("OLC") and others seeking "records . . . reflecting, discussing, or otherwise relating to the January 2, 2020 military strike in Iraq and/or the President's legal authority to launch such a strike," from "December 1, 2019 through the present." As you know, the request was assigned the tracking number FY20-031, is also the subject of the above-captioned litigation, and has been narrowed in certain ways by negotiation through counsel.

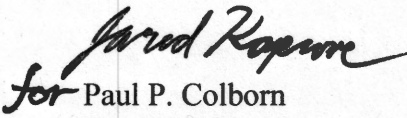
As agreed through counsel, OLC has processed the record identified in the Notice of OLC Memorandum filed in this matter on March 19, 2020. ECF No. 25. We are withholding the document in full pursuant to FOIA Exemption Five, 5 U.S.C. § 552(b)(5). The document is protected by the attorney-client, deliberative process, and presidential communications privileges. We have determined that the document is not appropriate for discretionary release at this time. We are continuing to search for and process responsive records.

For your information, Congress excluded three discrete categories of law enforcement 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 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.

Your counsel may contact Kari E. D'Ottavio of the Civil Division, Federal Programs Branch, at 202-305-0568 or at Kari.E.D'Ottavio@usdoj.gov, to discuss any aspect of your request. Additionally, you may contact the Office of Government Information Services ("OGIS") at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, 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.

Although your request is the subject of ongoing litigation, and administrative appeals are not ordinarily acted upon in such situations, I am required by statute and regulation to inform you of your right to file an administrative appeal. You may administratively appeal by writing to the Director, Office of Information Policy ("OIP"), United States Department of Justice, Suite 11050, 1425 New York Avenue, NW, Washington, DC 20530-0001, 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 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."

Sincerely,


for Paul P. Colborn
Special Counsel

cc: Kari E. D'Ottavio, Trial Attorney
Civil Division, Federal Programs Branch

John Paredes, Counsel
The Protect Democracy Project