

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

THE PROTECT DEMOCRACY  
PROJECT, INC.,

*Plaintiff,*

v.

U.S. DEPARTMENT OF JUSTICE, *et al.*,

*Defendants.*

Case No. 20-cv-172-RC

**DEFENDANTS' MEMORANDUM OF LAW IN  
SUPPORT OF MOTION FOR SUMMARY JUDGMENT**

**TABLE OF CONTENTS**

INTRODUCTION ..... 1

BACKGROUND ..... 1

I. Plaintiff’s FOIA Request and Defendants’ Responses..... 1

II. Plaintiff’s Lawsuit and Preliminary Injunction Motions..... 2

III. The OLC Memorandum ..... 3

IV. Statutory Background and Standard of Review ..... 4

ARGUMENT ..... 5

I. OLC Properly Withheld the OLC Memorandum Under FOIA Exemption 5 ..... 5

    A. OLC Properly Withheld the OLC Memorandum Based on the Presidential  
    Communications Privilege.....6

    B. OLC Properly Withheld the OLC Memorandum Based on the Attorney-Client  
    Privilege.....8

    C. OLC Properly Withheld the OLC Memorandum Based on the Deliberative  
    Process Privilege.....10

II. OLC Properly Withheld the OLC Memorandum in Full. .... 13

CONCLUSION..... 14

**TABLE OF AUTHORITIES**

<b><u>Cases</u></b>	<b><u>Page(s)</u></b>
<i>ACLU v. CIA</i> , 109 F. Supp. 3d 220 (D.D.C. 2015).....	7, 8, 10
<i>Beltranena v. U.S. Dep’t of State</i> , 821 F. Supp. 2d 167 (D.D.C. 2011).....	13
<i>Brayton v. Office of U.S. Trade Rep.</i> , 641 F.3d 521 (D.C. Cir. 2011).....	4
<i>Citizens for Responsibility and Ethics in Wash. v. U.S. Dep’t of Justice</i> , 658 F. Supp. 2d 217 (D.D.C. 2009).....	11
<i>Citizens for Responsibility and Ethics in Wash. v. U.S. Dep’t of Justice</i> , 746 F.3d 1082 (D.C. Cir. 2014).....	5
<i>Coastal States Gas Corp. v. Dep’t of Energy</i> , 617 F.2d 854 (D.C. Cir. 1980).....	11
<i>Cuban v. SEC</i> , 744 F. Supp. 2d 60 (D.D.C. 2010).....	9
<i>Diamond v. Atwood</i> , 43 F.3d 1538 (D.C. Cir. 1995).....	5
<i>FBI v. Abramson</i> , 456 U.S. 615 (1982).....	4
<i>Formaldehyde Inst. v. HHS</i> , 889 F.2d 1118 (D.C. Cir. 1989).....	11
<i>In re Sealed Case</i> , 121 F.3d 729 (D.C. Cir. 1997).....	6, 7, 10, 13
<i>In re Sealed Case</i> , 737 F.2d 94 (D.C. Cir. 1984).....	8
<i>John Doe Agency v. John Doe Corp.</i> , 493 U.S. 146 (1989).....	4
<i>Juarez v. U.S. Dep’t of Justice</i> , 518 F.3d 54 (D.C. Cir. 2008).....	13
<i>Judicial Watch v. Dep’t of Army</i> , 466 F. Supp. 2d 112 (D.D.C. 2006).....	8

<i>Judicial Watch v. Export-Import Bank</i> , 108 F. Supp. 2d 19 (D.D.C. 2000) .....	11
<i>Judicial Watch, Inc. v. U.S. Dep’t of Def.</i> , 245 F. Supp. 3d 19 (D.D.C. 2017) .....	<i>passim</i>
<i>Judicial Watch, Inc. v. U.S. Dep’t of Justice</i> , 365 F.3d 1108 (D.C. Cir. 2004) .....	6, 7
<i>Judicial Watch, Inc. v. U.S. Dep’t of Treasury</i> , 796 F. Supp. 2d 13 (D.D.C. 2011) .....	11
<i>Loving v. U.S. Dep’t of Def.</i> , 550 F.3d 32 (D.C. Cir. 2008) .....	6
<i>Mapother v. Dep’t of Justice</i> , 3 F.3d 1533 (D.C. Cir. 1993) .....	10
<i>Mead Data Cent., Inc. v. U.S. Dep’t of Air Force</i> , 566 F.2d 242 (D.C. Cir. 1977) .....	9, 12, 13
<i>Milner v. Dep’t of Navy</i> , 562 U.S. 562 (2011) .....	4
<i>Nixon v. Adm’r of Gen. Servs.</i> , 433 U.S. 425 (1977) .....	6
<i>NLRB v. Robbins Tire &amp; Rubber Co.</i> , 437 U.S. 214 (1978) .....	4
<i>NLRB v. Sears, Roebuck &amp; Co.</i> , 421 U.S. 132 (1975) .....	5, 10, 11, 12
<i>Privacy Info. Ctr. (“EPIC”) v. U.S. Dep’t of Justice</i> , 584 F. Supp. 2d 65 (D.D.C. 2008) .....	7, 8, 12
<i>Privacy Info. Ctr. v. Dep’t of Homeland Security</i> , 384 F. Supp. 2d 100 (D.D.C. 2005) .....	9
<i>Protect Democracy Project, Inc. v. U.S. Dep’t of</i> <i>Def.</i> , 320 F. Supp. 3d 162 (D.D.C. 2018) .....	7, 8
<i>Russell v. Dep’t of the Air Force</i> , 682 F.2d 1045 (D.C. Cir. 1982) .....	10
<i>Sussman v. U.S. Marshals Serv.</i> , 494 F.3d 1106 (D.C. Cir. 2007) .....	13, 14

<i>Tax Analysts v. IRS</i> , 117 F.3d 607 (D.C. Cir. 1997).....	8, 9
<i>Taxation With Representation Fund v. IRS</i> , 646 F.2d 666 (D.C. Cir. 1981).....	5
<i>United States v. Nixon</i> , 418 U.S. 683 (1974).....	6
<i>United States v. Weber Aircraft Corp.</i> , 465 U.S. 792 (1984).....	5
<i>Wolf v. CIA</i> , 473 F.3d 370 (D.C. Cir. 2007).....	5
<b><u>Statutes</u></b>	
5 U.S.C. § 552.....	3, 4, 5, 13
<b><u>Rules</u></b>	
Fed. R. Civ. P. 56(a) .....	5
<b><u>Other Authorities</u></b>	
1966 U.S.C.C.A.N. 2418 .....	4

## INTRODUCTION

Plaintiff in this Freedom of Information Act (“FOIA”) case seeks records from Defendants relating to the January 2, 2020 U.S. military strike in Iraq that killed Iranian General Qassem Soleimani. Since Plaintiff filed its lawsuit, it has narrowed its request to a single document – a legal memorandum written by the Office of Legal Counsel (“the OLC Memorandum”), which was processed and withheld in full under FOIA Exemption 5. The OLC Memorandum—solicited and received by one of the President’s top national security advisors, the Legal Advisor to the National Security Council—memorializes and details legal advice regarding the President’s authority to authorize the January 2 strike. It thus falls squarely within the protections of the presidential communications, attorney-client, and deliberative process privileges. Accordingly, and as established in the supporting declaration, OLC properly withheld the OLC Memorandum in its entirety pursuant to FOIA Exemption 5. This Court should therefore grant summary judgment to Defendants.

## BACKGROUND

### **I. Plaintiff’s FOIA Request and Defendants’ Responses**

By letter dated January 3, 2020, Plaintiff submitted an identical FOIA request to three components within the Department of Justice (“DOJ”) – the Office of Legal Counsel (“OLC”), the Office of Information Policy (“OIP”), and the National Security Division (“NSD”) – and to the Department of Defense (“DOD”) and the Department of State (“State”) (collectively, the “agencies”). ECF No. 13, Am. Compl., Exs. A-E. The request seeks, from December 1, 2019 to the present:

- a. Any and all records, including but not limited to emails and memoranda, 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.

- b. Any and all records, including but not limited to emails and memoranda, reflecting or related to communications with Congress, congressional committees, or individual members of Congress regarding the January 2, 2020 military strike in Iraq, including but not limited to records that reflect consideration of whether or not to inform Congress, congressional committees, or individual members of Congress of the strike, and/or the existence or absence of any obligation to inform Congress, congressional committees, or individual members of Congress of the strike.

For each request, Plaintiff sought expedited processing and a fee waiver. Am. Compl., Exs. A-E.

Within two weeks of Plaintiff's request, all agencies had acknowledged receipt of the request, assigned it a tracking number, and provided an agency contact if Plaintiff wished to discuss the request or narrow its scope. *See* Am. Compl., Exs. F, G, H, J, L. Both OLC and OIP granted Plaintiff's request for expedited processing. *Id.*, Exs. F-G. NSD, DOD, and State initially denied Plaintiff's request for expedited processing. *Id.*, Exs. H, J, L.

## **II. Plaintiff's Lawsuit and Preliminary Injunction Motions**

On January 22, 2020, Plaintiff filed suit against the agencies and sought a preliminary injunction to expedite the processing of its requests. *See* ECF No. 1, Compl. ¶ 59 (alleging that NSD, DOD, and State violated the FOIA by failing to grant expedited processing); ECF No. 3, Pl.'s First Mot. for PI (seeking order to expedite processing). On January 31, 2020, NSD, DOD, and State informed Plaintiff that they would grant Plaintiff's request for expedited processing. *See* Am. Compl., Exs. I, K, M. Plaintiff then withdrew its motion for a preliminary injunction. ECF No. 11.

On February 19, 2020, Plaintiff amended its complaint, alleging that all five agencies or agency components (now including OLC and OIP) violated the FOIA by failing to respond to Plaintiff's request within the statutorily prescribed time limit. Am. Compl. ¶ 65. Plaintiff simultaneously filed a renewed motion for a preliminary injunction seeking a court order requiring the agencies to produce:

- a. Within 24 hours of the Court's order, non-exempt portions of: (1) any OLC memoranda addressing the legality of the Soleimani strike and/or any obligation to consult with Congress regarding the strike; (2) any correspondence or memoranda addressing the legality of the strike drafted by officials serving any one of the Defendants and shared with the National Security Council; and (3) any "records of discussions" or "summary of conclusions" related to a meeting or meeting(s) involving lawyers for any of the Defendants and pertaining to the Soleimani strike; or confirmation that no such records exists;
- b. All other non-exempt responsive records by March 18, 2020.

ECF No. 14. Defendants opposed Plaintiff's renewed motion for preliminary injunction. ECF No. 17. The Court held a hearing on March 12, 2020, after which it ordered OLC to notify the Court whether it possessed a memorandum or opinion responsive to Plaintiff's FOIA request, *see* March 12, 2020 Minute Order, and ordered the parties to submit proposed schedules to govern the case, *see* March 16, 2020 Minute Order.

### **III. The OLC Memorandum**

On March 19, 2020, Defendants filed a Notice of OLC Memorandum, informing the Court that it possessed a legal memorandum meeting the description of Plaintiff's FOIA request but that the memorandum was non-responsive because it was signed after OLC initiated its search for responsive records on January 31, 2020. ECF No. 25. OLC stated it would nevertheless process the memorandum. *Id.*

On May 11, 2020, OLC notified Plaintiff that it was withholding in full the OLC Memorandum pursuant to FOIA Exemption 5, 5 U.S.C. § 552(b)(5). *See* Colborn Decl., Ex. C. OLC explained that the memorandum is protected from disclosure by the presidential communications, attorney-client, and deliberative process privileges. *Id.*

On June 22, 2020, the parties submitted a status report indicating that Plaintiff agreed to narrow its FOIA request solely to the OLC Memorandum and, as a result, the parties agreed that Plaintiff's preliminary injunction motion is moot and no claims remain against State, DOD, OIP,



or NSD. ECF No. 30. The Court thereafter denied as moot Plaintiff's motion for preliminary injunction and its motion for expedited hearing and briefing schedule. June 22, 2020 Minute Order.

Accordingly, the only remaining issue in this case is whether OLC properly withheld in full the OLC Memorandum pursuant to FOIA Exemption 5.<sup>1</sup>

#### **IV. Statutory Background and Standard of Review**

The Freedom of Information Act, 5 U.S.C. § 552, generally mandates disclosure, upon request, of government records held by an agency of the Federal Government, except to the extent such records are protected from disclosure by one of nine exemptions. *Milner v. Dep't of the Navy*, 562 U.S. 562, 563-566 (2011). "The basic purpose of FOIA is to ensure an informed citizenry, vital to the functioning of a democratic society, needed to check against corruption and to hold the governors accountable to the governed." *NLRB v. Robbins Tire & Rubber Co.*, 437 U.S. 214, 242 (1978). At the same time, Congress recognized "that legitimate governmental and private interests could be harmed by release of certain types of information and provided nine specific exemptions under which disclosure could be refused." *FBI v. Abramson*, 456 U.S. 615, 621 (1982); *see also* 5 U.S.C. § 552(b). While these exemptions are to be "narrowly construed," *Abramson*, 456 U.S. at 630, courts must not fail to give them "meaningful reach and application," *John Doe Agency v. John Doe Corp.*, 493 U.S. 146, 152 (1989). The FOIA thus represents "a workable balance between the right of the public to know and the need of the Government to keep information in confidence to the extent necessary without permitting indiscriminate secrecy." *Id.* (quoting H.R. Rep. No. 89-1497, pt. 3 as reprinted in 1966 U.S.C.C.A.N. 2418, 2423 (1966)).

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<sup>1</sup> In their proposed order, Defendants seek dismissal without prejudice of all claims against State, DOD, and DOJ components OIP and NSD.

FOIA cases are typically and appropriately resolved on motions for summary judgment. *See Brayton v. Office of U.S. Trade Rep.*, 641 F.3d 521, 527 (D.C. Cir. 2011). As with non-FOIA cases, summary judgment is appropriate when there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. *See Fed. R. Civ. P. 56(a); Diamond v. Atwood*, 43 F.3d 1538, 1540 (D.C. Cir. 1995). Defendants may demonstrate entitlement to summary judgment through affidavits that “describe the justifications for nondisclosure with reasonably specific detail [and] demonstrate that the information withheld logically falls within the claimed exemption, and [that] are not controverted by either contrary evidence in the record nor by evidence of agency bad faith.” *Citizens for Responsibility & Ethics in Wash. v. U.S. Dep’t of Justice*, 746 F.3d 1082, 1088 (D.C. Cir. 2014) (citations omitted). “Ultimately, an agency’s justification for invoking a FOIA exemption is sufficient if it appears ‘logical’ or ‘plausible.’” *Wolf v. CIA*, 473 F.3d 370, 374-75 (D.C. Cir. 2007) (citation omitted).

## ARGUMENT

### **I. OLC Properly Withheld the OLC Memorandum Under FOIA Exemption 5.**

OLC properly withheld in full the OLC Memorandum pursuant to FOIA Exemption 5, which shields from mandatory disclosure “inter-agency or intra-agency memorandums or letters that would not be available by law to a party . . . in litigation with the agency.” 5 U.S.C. § 552(b)(5). Exemption 5 ensures that members of the public cannot obtain through FOIA what they could not ordinarily obtain through discovery in a lawsuit against the agency. *NLRB v. Sears, Roebuck & Co.*, 421 U.S. 132, 149 (1975). It thus protects from disclosure those documents that, as here, are shielded by the presidential communications privilege, the attorney-client privilege, and the deliberative process privilege. *See, e.g., United States v. Weber Aircraft Corp.*, 465 U.S. 792, 800 (1984); *Taxation With Representation Fund v. IRS*, 646 F.2d 666, 676 (D.C. Cir. 1981).

Because the withheld document fits squarely within these privileges, the Court should grant OLC summary judgment.

**A. OLC Properly Withheld the OLC Memorandum Based on the Presidential Communications Privilege.**

OLC properly withheld the OLC Memorandum under FOIA Exemption 5 because the memorandum is protected by the presidential communications privilege. The presidential communications privilege applies to “communications that directly involve the President,” as well as “communications authored or solicited and received by [] members of an immediate White House adviser’s staff who have broad and significant responsibility for investigating and formulating the advice to be given the President on the particular matter to which the communications relate.” *In re Sealed Case*, 121 F.3d 729, 751-52 (D.C. Cir. 1997). In particular, the privilege applies “to communications in performance of (a President’s) responsibilities, . . . and made in the process of shaping policies and making decisions.” *Nixon v. Adm’r of Gen. Servs.*, 433 U.S. 425, 449 (1977) (citations omitted). The privilege “preserves the President’s ability to obtain candid and informed opinions from his advisors and to make decisions confidentially.” *Loving v. U.S. Dep’t of Def.*, 550 F.3d 32, 37 (D.C. Cir. 2008); *see United States v. Nixon*, 418 U.S. 683, 708 (1974) (describing the privilege as a “presumptive privilege for [p]residential communications”). Unlike the deliberative process privilege, the presidential communications privilege “applies to documents in their entirety, and covers final and post-decisional materials as well as pre-deliberative ones.” *In re Sealed Case*, 121 F.3d at 745. The presidential communications privilege thus is a broader privilege that provides greater protection against disclosure. *Judicial Watch, Inc. v. U.S. Dep’t of Justice*, 365 F.3d 1108, 1114 (D.C. Cir. 2004).

The OLC Memorandum undoubtedly is protected from disclosure by the presidential communications privilege. The document is a legal advice memorandum that memorializes prior

advice given for use in advising the President and other senior Executive Branch officials on the President's authority to authorize the then-contemplated U.S. military strike targeting Iranian General Quassem Soleimani in January 2020. Colborn Decl. ¶ 15. The OLC Memorandum was solicited by and addressed to John A. Eisenberg, Deputy Counsel to the President and Legal Advisor to the National Security Council ("NSC"), and signed by OLC Assistant Attorney General Steven A. Engel. *Id.* As NSC Legal Advisor, Mr. Eisenberg "has broad and significant responsibility for investigating and formulating the advice to be given the President" regarding national security." *Protect Democracy Project, Inc. v. U.S. Dep't of Def.*, 320 F. Supp. 3d 162, 173 (D.D.C. 2018) (quoting *In re Sealed Case*, 121 F.3d at 752). "So if the Legal Adviser were to solicit a document related to a national security decision being contemplated by the President, it would no doubt be protected by the presidential communications privilege." *Id.* Indeed, "[c]ompelled disclosure of such communications between OLC and the NSC Legal Adviser would threaten the quality of presidential decisionmaking by impairing the deliberative process in which those decisions are made." Colborn Decl. ¶ 17.

Several judges in this district have found that the presidential communications privilege applies to similar types of legal memoranda. *See, e.g., Judicial Watch, Inc. v. U.S. Dep't of Def.*, 245 F. Supp. 3d 19, 31 (D.D.C. 2017) (Walton, J.) (presidential communications privilege applied to five legal memoranda memorializing legal advice provided to President Obama regarding the then-contemplated raid on Usama Bin Laden's compound in Pakistan), *aff'd*, 913 F.3d 1106 (D.C. Cir. 2019); *ACLU v. CIA*, 109 F. Supp. 3d 220, 239-40 (D.D.C. 2015) (Collyer, J.) (presidential communications privilege applied to eleven legal memoranda concerning the government's use of targeted lethal force); *Elec. Privacy Info. Ctr. ("EPIC") v. U.S. Dep't of Justice*, 584 F. Supp. 2d 65, 81 (D.D.C. 2008) (Kennedy, J.) (presidential communications privilege applied to OLC

memorandum containing legal recommendations concerning the President’s authorization of the Terrorist Surveillance Program).

Recently, moreover, Judge Cooper held that the presidential communications privilege applied to a legal memorandum drafted by a group of lawyers from State, DOD, and OLC, and solicited and received by the Deputy NSC Legal Advisor. *See Protect Democracy Project*, 320 F. Supp. 3d 162. Like here, that memorandum was related to Presidential decision-making, as its purpose was to communicate pre-decisional advice and recommendations to the President and NSC regarding the President’s legal authority to launch a potential military action. The court explained that, “even if the legal analysis in the memorandum was not communicated to the President, the circumstances of its solicitation—by the staff of a close national security advisor leading up to an important military decision—shows that the document was created for the purpose of advising the President on that decision.” *Id.* at 174. The same is true here.

As in *Protect Democracy Project*, OLC has met its burden of showing that the OLC Memorandum is protected by the presidential communications privilege. *See Protect Democracy Project*, 320 F. Supp. 3d at 174-75; *see also Judicial Watch, Inc.*, 245 F. Supp. 3d at 31; *ACLU*, 109 F. Supp. 3d at 239; *EPIC*, 584 F. Supp. 2d at 81. Thus, OLC properly withheld the memorandum in full under Exemption 5.

**B. OLC Properly Withheld the OLC Memorandum Based on the Attorney-Client Privilege.**

The OLC Memorandum is also protected from disclosure by the attorney-client privilege. The attorney-client privilege “protects confidential communications from clients to their attorneys made for the purpose of securing legal advice or services.” *Tax Analysts v. IRS*, 117 F.3d 607, 618 (D.C. Cir. 1997) (citing *In re Sealed Case*, 737 F.2d 94, 98–99 (D.C. Cir. 1984)). “Although it principally applies to facts divulged by a client to his attorney, this privilege also encompasses any

opinions given by an attorney to his client based on, and thus reflecting, those facts as well as communications between attorneys that reflect client-supplied information.” *Judicial Watch v. Dep’t of Army*, 466 F. Supp. 2d 112, 121 (D.D.C. 2006); *Elec. Privacy Info. Ctr. v. Dep’t of Homeland Security*, 384 F. Supp. 2d 100, 114 (D.D.C. 2005) (same).

“In the governmental context, the ‘client’ may be the agency and the attorney may be an agency lawyer.” *Tax Analysts*, 117 F.3d at 618; *see Cuban v. SEC*, 744 F. Supp. 2d 60, 78 (D.D.C. 2010) (“In the context of Exemption 5, the attorney-client privilege functions to protect communications between government attorneys and client agencies or departments, as evidenced by its inclusion in the FOIA, much as it operates to protect attorney-client communications in the private sector.” (citation omitted)). “[W]hen the Government is dealing with its attorneys as would any private party seeking advice to protect personal interests, and needs the same assurance of confidentiality so it will not be deterred from full and frank communications with its counselors, Exemption 5 applies.” *Judicial Watch, Inc.*, 245 F. Supp. 3d at 32 (citations omitted). To invoke the attorney-client privilege, a party must demonstrate that the document it seeks to withhold: (1) involves “confidential communications between an attorney and his client”; and (2) relates to “a legal matter for which the client has sought professional advice.” *Mead Data Cent., Inc. v. U.S. Dep’t of the Air Force*, 566 F.2d 242, 252 (D.C. Cir. 1977); *accord Cuban*, 744 F. Supp. 2d at 78.

The OLC Memorandum falls squarely within the attorney-client privilege’s protections. The main function of OLC is to provide legal advice to the President and other Executive Branch officials. Colborn Decl. ¶ 2. Here, as explained above, OLC attorneys wrote the OLC Memorandum for the purpose of advising their client—the Legal Advisor to the NSC—on the legal basis for potential military action. “The limited factual material contained in the document was provided to OLC by the NSC staff for purposes of developing this confidential legal advice,”

and is “closely intertwined” with that analysis. *Id.* ¶¶ 18-19. The document contains “confidential client communications made to OLC” and there is no indication that that confidentiality has not been maintained. *Id.* ¶ 15. “Just as disclosure of client confidences in the course of seeking legal advice would seriously disrupt the relationship of trust so critical when attorneys formulate legal advice to their clients, so too would disclosure of the legal advice itself undermine that trust.” *Id.* ¶ 19.

Accordingly, the OLC Memorandum was properly withheld under Exemption 5 as protected by the attorney-client privilege. *See Judicial Watch, Inc.*, 245 F. Supp. 3d at 32-33 (attorney-client privilege applied to memoranda written by agency attorneys to their clients, “the President and his closest advisors,” relating to the legality of raid in which Usama bin Laden was killed); *ACLU*, 109 F. Supp. 3d at 239-40 (attorney-client privilege applied to eleven legal memoranda concerning the government’s use of targeted lethal force).

**C. OLC Properly Withheld the OLC Memorandum Based on the Deliberative Process Privilege.**

Finally, the OLC Memorandum is also protected from disclosure by the deliberative process privilege. The deliberative process privilege applies to “decisionmaking of executive officials generally,” and protects documents containing deliberations that are part of the process by which government decisions are formulated. *In re Sealed Case*, 121 F.3d at 737, 745. The purpose of the deliberative process privilege is to encourage full and frank discussion of legal and policy issues within the government, and to protect against public confusion resulting from disclosure of reasons and rationales that were not ultimately the bases for the agency’s action. *See, e.g., Mapother v. Dep’t of Justice*, 3 F.3d 1533, 1537 (D.C. Cir. 1993); *Russell v. Dep’t of the Air Force*, 682 F.2d 1045, 1048 (D.C. Cir. 1982). The privilege is animated by the common-sense proposition that “those who expect public dissemination of their remarks may well temper candor

with a concern for appearances to the detriment of the decisionmaking process.” *Sears, Roebuck & Co.*, 421 U.S. at 150-51 (citation omitted).

To come within the scope of the deliberative process privilege, a document must be both predecisional and deliberative. *Coastal States Gas Corp. v. Dep’t of Energy*, 617 F.2d 854, 866 (D.C. Cir. 1980). A document is predecisional if “it was generated before the adoption of an agency policy” and it is deliberative if “it reflects the give-and-take of the consultative process.” *Id.* “To establish that a document is predecisional, the agency need not point to an agency final decision, but merely establish what deliberative process is involved, and the role [sic] that the documents at issue played in that process.” *Judicial Watch v. Export-Import Bank*, 108 F. Supp. 2d 19, 35 (D.D.C. 2000) (citing *Formaldehyde Inst. v. HHS*, 889 F.2d 1118, 1223 (D.C. Cir. 1989)). The privilege therefore applies broadly to “recommendations, draft documents, proposals, suggestions, and other subjective documents which reflect the personal opinions of the writer rather than the policy of the agency.” *Coastal States*, 617 F.2d at 866.

The OLC Memorandum is protected from disclosure by the deliberative process privilege. The document records, and explains the basis for, pre-decisional legal advice prepared for the consideration of the President’s national security advisors to aid the President in deciding whether to authorize the January 2020 strike. Colborn Decl. ¶ 18. While finalized after the strike, the OLC Memorandum is nevertheless predecisional because it memorializes legal advice that was provided to the NSC Legal Advisor and others prior to the President’s decision to authorize the strike. *Id.* ¶ 15. *See Judicial Watch, Inc. v. U.S. Dep’t of Treasury*, 796 F. Supp. 2d 13, 31 (D.D.C. 2011) (“Post-decisional documents properly fall under the deliberative process privilege when they recount or reflect pre-decisional deliberations.”); *Citizens for Responsibility and Ethics in Wash. v. U.S. Dep’t of Justice*, 658 F. Supp. 2d 217, 234 (D.D.C. 2009) (information that “recounts the



‘ingredients of the decision-making process’” properly withheld under deliberative process privilege) (quoting *Sears, Roebuck & Co.*, 421 U.S. at 151)). Indeed, “[i]t would exalt form over substance to exempt documents in which staff recommend certain action or offer their opinions on given issues but require disclosure of documents which only ‘report’ on what those recommendations and opinions are.” *Mead Data Cent. Inc.*, 566 F.2d at 256. The OLC Memorandum is also deliberative because it consists of legal advice from OLC to the NSC Legal Advisor for use in the deliberations over whether to recommend that the President authorize the strike. Colborn Decl. ¶ 18. This sort of information falls squarely within the deliberative process privilege. *See EPIC*, 584 F. Supp. 2d at 75 (“If OLC provides legal advice as part of a decision-making process, this legal advice is protected under the deliberative process privilege.”).

Disclosure of this type of deliberative information would inhibit the frank communications and the free exchange of ideas that the deliberative process privilege is designed to protect. *See Sears, Roebuck & Co.*, 421 U.S. at 150–51 (“T]hose who expect public dissemination of their remarks may well temper candor with a concern for appearances to the detriment of the decisionmaking process.”) (citation omitted). It is essential to the President in carrying out his duties, especially with respect to ordering military operations, and to the proper functioning of the Executive Branch overall that “OLC’s legal advice not be inhibited by concerns about the risk of public disclosure,” “both to ensure that creative and sometimes controversial legal arguments and theories may be examined candidly, effectively, and in writing, and to ensure that the President, his advisers, and other Executive Branch officials continue to request and rely on frank legal advice from OLC and other government attorneys on sensitive matters.” Colborn Decl. ¶ 20.

For all these reasons, OLC has properly withheld the OLC Memorandum under FOIA Exemption 5 and is entitled to summary judgment on this issue.

## II. OLC Properly Withheld the OLC Memorandum in Full.

The FOIA requires that, if a record contains information that is exempt from disclosure, any “reasonably segregable” information must be disclosed after deletion of the exempt information. 5 U.S.C. § 552(b). Agencies must therefore release all non-exempt portions of a document “unless they are inextricably intertwined with exempt portions.” *Mead Data Cent., Inc.*, 566 F.2d at 260 (stating information is not segregable if, absent exempt information, “the result would be an essentially meaningless set of words and phrases,” *id.* at 261). “A ‘document-by-document’ review and a declaration that each piece of information that is withheld is not reasonably segregable is sufficient to show that an entire document cannot be produced.” *Judicial Watch, Inc.*, 245 F. Supp. 3d at 36-37 (citing *Juarez v. U.S. Dep’t of Justice*, 518 F.3d 54, 61 (D.C. Cir. 2008); *Beltranena v. U.S. Dep’t of State*, 821 F. Supp. 2d 167, 178-79 (D.D.C. 2011)). “Agencies are entitled to a presumption that they complied with the obligation to disclose reasonably segregable material.” *See Sussman v. U.S. Marshals Serv.*, 494 F.3d 1106, 1117 (D.C. Cir. 2007).

Consistent with this obligation, OLC carefully reviewed the OLC Memorandum to determine whether any portions could be released without disclosing information warranting protection under the FOIA, and determined that “the document does not contain reasonably segregable, nonexempt information.” Colborn Decl. ¶ 21. OLC explained that the limited factual information provided to OLC in confidence in order to formulate legal advice was “inextricably intertwined” with that analysis and, moreover, segregation is not required due to the proper application of the presidential communications privilege. *Id.* *See Judicial Watch v. U.S. Dep’t of Justice*, 913 F.3d 1106, 1111 (D.C. Cir. 2019) (“Once the [presidential communications] privilege applies, the entirety of the document is protected.” (citing *In re Sealed Case*, 121 F.3d at 745)).

OLC has thus established that it released all reasonably segregable, non-exempt information and is entitled to summary judgment on this issue. *Sussman*, 494 F.3d at 1117.

**CONCLUSION**

For the foregoing reasons, Defendants respectfully request that the Court grant their motion and enter summary judgment in their favor.

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Respectfully submitted,

JOSEPH H. HUNT  
Assistant Attorney General

ELIZABETH J. SHAPIRO  
Deputy Director, Federal Programs Branch

*/s/ Kari E. D'Ottavio*  
KARI E. D'OTTAVIO  
NY Bar Reg. No. 5338785  
Trial Attorney  
United States Department of Justice  
Civil Division, Federal Programs Branch  
1100 L Street NW  
Washington, D.C. 20005  
(P) 202-305-0568  
(F) 202-616-8470  
kari.e.d'ottavio@usdoj.gov

*Attorneys for Defendants*