

EMPOWER OVERSIGHT

Whistleblowers & Research



August 8, 2022

VIA ELECTRONIC TRANSMISSION: LAUREN.WETZLER@USDOJ.GOV.

Director
Office of Information Policy
United States Department of Justice
Sixth Floor
441 G Street, NW,
Washington, DC 20530-0001
C/O Lauren Wetzler

RE: Freedom of Information Act Appeal: FOIA-2021-01701

Dear Office of General Counsel:

Introduction

With respect to Freedom of Information Act ("FOIA")¹ request FOIA-2021-01701, Empower Oversight Whistleblowers & Research ("Empower Oversight")² appeals the initial decision of the Department of Justice ("DOJ"). Specifically, Empower Oversight challenges the reasonableness of the DOJ's search for records, its withholding of records without assertion of applicable authority to do so, and its claim that certain portions of the records requested by Empower Oversight are exempt from disclosure under FOIA Exemptions b(5) and b(6). Empower Oversight respectfully requests that the DOJ review its search, withholdings, and exemption claims and correct any errors that are identified.

¹ The FOIA is codified at 5 U.S.C. § 552.

² Empower Oversight is a nonpartisan, nonprofit educational organization, which is dedicated to enhancing independent oversight of government and corporate wrongdoing. It works to help insiders safely and legally report waste, fraud, abuse, corruption, and misconduct to the proper authorities, and seeks to hold those authorities accountable to act on such reports by, among other means, publishing information concerning the same.

Empower Oversight's FOIA Request

On July 12, 2021, Empower Oversight filed with the DOJ a request for records under the FOIA. Empower Oversight's July 12th FOIA request seeks records relating to:

1. the Justice Department's consideration and hiring of Ms. [Susan] Hennessey, including all records related to her interest in joining the Department, consideration of her for any Department position, any statements of recommendation, evaluations of her qualifications, records relating to interviews with Ms. Hennessey, notes from any such interviews, and any offers of employment;
2. all forms completed by Ms. Hennessey in the application, hiring, and onboarding processes at Department of Justice;
3. all conflicts Ms. Hennessey reported or the Department assessed to apply to her;
4. all recusals applicable to Ms. Hennessey, including all records relating to any recusal or draft recusal of Ms. Hennessey from matters related to Special Counsel [John] Durham's inquiry;
5. all records relating to Ms. Hennessey's deleted tweets;
6. all records to or from the relevant Justice Department Ethics Officials, including Michael Nannes or Cynthia Shaw, regarding Ms. Hennessey;
7. Ms. Hennessey's calendar entries from the first day of her employment at the Department to the present;
8. all records sent or received by Ms. Hennessey that include the terms "Durham," "Special Counsel," "Steele," "dossier," "Clinesmith," or "Danchenko"; [and]
9. all records relating to Ms. Hennessey's previous employer, Lawfare, and leaks regarding Special Counsel [Robert] Mueller's investigation.³

In addition, Empower Oversight requested: 1) a waiver of search and duplication fees associated with the DOJ's processing of its FOIA request, and 2) expedited processing.

In support of its FOIA request, Empower Oversight explained that on June 29, 2021, Senators Charles Grassley and Ron Johnson wrote to Attorney General Merrick Garland and raised a number of serious questions about Ms. Hennessey's work in the DOJ's National Security Division ("NSD").⁴ The Senators noted that Ms. Hennessey had a history of expressing partisan views concerning the Steele Dossier, the Federal Bureau of Investigation's ("FBI") Crossfire Hurricane investigation, the DOJ Office of Inspector General's review of the Crossfire Hurricane investigation, and Special Counsel Durham's investigation of intelligence, counterintelligence, and law enforcement activities directed at the 2016 presidential campaigns.⁵

³ A copy of Empower Oversight's July 12th FOIA request is attached as Exhibit 1.

⁴ Letter from Senators Charles E. Grassley and Ron Johnson to the Honorable Merrick Garland (June 29, 2021), available at https://www.judiciary.senate.gov/imo/media/doc/grassley_johnson_to_justice_dept.hennesseyconflicts.pdf.

⁵ *Id.*

Additionally, it had been reported that immediately following the 2020 presidential election Ms. Hennessey deleted *en masse* tens of thousands of her postings from her Twitter account.⁶ *Fox News* reported that between November 16, 2020, and November 29, 2020, the number of tweets on her Twitter account dropped by more than 33,000, precluding a thorough examination of the nature and scope of her promotion of the Steele Dossier, defense of the Crossfire Hurricane investigation, and criticism of the Office of Inspector General's review and Special Counsel Durham's investigation.⁷

In light of her prejudicial comments that were reported by the Senators and news media, and Ms. Hennessey's apparent effort to frustrate additional research regarding her prior partisan rants on Twitter, her ability to appear objective and impartial in any official duties related to Special Counsel Durham's investigation raises legitimate questions. Thus, there is an acute public interest in the transparency of the DOJ's hiring of Ms. Hennessey, and what steps, if any, it has taken to mitigate the appearance—or reality—that Ms. Hennessey's biases could undermine Special Counsel Durham's independent work.

The DOJ's Response to Empower Oversight's FOIA Request

By letter dated July 22, 2021, the DOJ acknowledged receipt of Empower Oversight's July 12th FOIA request; designated its request as FOIA-2021-01701; denied Empower Oversight's request for expedited processing; postponed a decision on its request for a fee waiver pending a determination "whether fees will be implicated" by the same; identified the analyst assigned to Empower Oversight's request; identified the FOIA liaison assigned to its request; and informed Empower Oversight of the availability of mediation services offered by the National Archives and Records Administration. Additionally, the DOJ advised:

To the extent that your request requires a search in another Office, consultations with other Department components or another agency, and/or involves a voluminous amount of material, your request falls within "unusual circumstances." See 5 U.S.C. 552 § (a)(6)(B)(i)-(iii) (2018). Accordingly, we will need to extend the time limit to respond to your request beyond the ten additional days provided by the statute. For your information, we use multiple tracks to process requests, but within those tracks we work in an agile manner, and the time needed to complete our work on your request will necessarily depend on a variety of factors, including the complexity of our records search, the volume and complexity of any material located, and the order of receipt of your request. At this time we have assigned your request to the complex track. In an effort to speed up our process, you may wish to narrow the scope of your request to limit the number of potentially responsive records so that it can be placed in a different processing track. You can also agree to an alternative time frame for processing, should records be located, or you may wish to await the completion of our records search to discuss either of these options.

By letter dated April 20, 2022, the DOJ's Office of Information Policy ("OIP") issued an initial response to Empower Oversight's July 12th FOIA request.⁸ The OIP advised that as part of its initial response to the request it had considered 51 pages of records. Of the 51 pages, the OIP determined to withhold 26 pages in full pursuant to FOIA Exemption b(5), and to produce the complementary 25 pages with redactions pursuant to FOIA Exemption b(6). The OIP added

⁶ Keene, Houston, *New Biden DOJ Staffer Deleted over 39K tweets, Including Russia Collusion Accusations* (May 10, 2021), available at <https://www.foxnews.com/politics/biden-doj-susan-hennessey-deleted-tweets-russia-collusion>.

⁷ *Id.*

⁸ A copy of the OIP's April 20th response to Empower Oversight's FOIA request is attached as Exhibit 2.

that it had referred an additional 21 pages that had been originated by the NSD had been referred to such division for a direct response.

By letter digitally signed on April 21, 2022, the DOJ's Justice Management Division ("JMD") responded to Empower Oversight's July 12th FOIA request, FOIA-2021-01701.⁹ In its response, the JMD advised that it had located (or had received from the NSD) 131 pages of responsive records; was withholding 62 pages in full pursuant to FOIA Exemptions b(6) and b(7)(C); was releasing 69 pages "with some redactions" pursuant to FOIA Exemptions b(6) and b(7)(C); and was withholding two Zoom meeting links pursuant to FOIA Exemptions b(5) and b(6).

By letter dated May 27, 2022, the NSD issued an initial response to Empower Oversight's July 12th FOIA request.¹⁰ The NSD advised that it had "located [an undefined volume of] records" responsive to Empower Oversight's July 12th FOIA request, and that after "reviewing these items" it had "determined to release in part one record, responsive to item 8 of your request. . . ." The NSD also advised that it had redacted the record it produced pursuant to FOIA Exemptions b(5) and b(6).

By letter dated May 27, 2022, the OIP issued its final response Empower Oversight's July 12th FOIA request. The OIP stated that, in connection with its final response, it had considered 68 pages of records.¹¹ Of the 68 pages, it advised that it had withheld 47 in full pursuant to FOIA Exemption b(5), and was producing the complementary 21 pages with redactions pursuant to FOIA Exemptions b(5) and b(6).

Also, by a separate letter dated May 27, 2022, the OIP advised that the NSD had forwarded to it 47 pages of records for its direct response to Empower Oversight's July 12th FOIA request.¹² The OIP added that it deemed 37 of the 47 pages either not responsive to the request or duplicative; was producing 9 pages with redactions pursuant to FOIA Exemptions b(5) and b(6); and was withholding 1 page in full pursuant to FOIA Exemption b(6).

By letter dated July 11, 2022, the NSD issued its final response to Empower Oversight's July 12th FOIA request.¹³ The NSD advised that located a single record responsive to item 7 of the request, i.e., Ms. Hennessey's calendar entries, and had redacted information from the record pursuant to FOIA Exemptions b(3), b(5), b(6), b(7)(C), b(7)(D), and b(7)(E). Regarding FOIA Exemption b(5), the NSD described the breadth of the exemption as permitting "the withholding of inter-agency or intra-agency memorandums or letters which reflect the predecisional, deliberative processes of the Department."

⁹ A copy of the JMD's April 21st response to Empower Oversight's FOIA request is attached as Exhibit 3.

¹⁰ A copy of the NSD's May 27th response to Empower Oversight's FOIA request is attached as Exhibit 4.

¹¹ A copy of the OIP's May 27th final response to Empower Oversight's FOIA request is attached as Exhibit 5.

¹² A copy of the OIP's May 27th response to Empower Oversight's FOIA request, as it relates to the referral from the NSD, is attached as Exhibit 6.

¹³ A copy of the NSD's July 11th response to Empower Oversight's FOIA request is attached as Exhibit 7.

Based upon the Circumstances, It Appears that the OIP Failed to Conduct a Records Search that Was Reasonably Calculated to Uncover All Relevant Documents

Courts generally analyze the adequacy of a search by considering the reasonableness of the agency's effort in the context of the specific FOIA request.¹⁴ The legal standard governing searches for records responsive to FOIA requests requires an agency to conduct a search that is "reasonably calculated to uncover all relevant documents."¹⁵ Courts have found searches to be sufficient when, among other things, they are based on a reasonable interpretation of the scope of the subject matter of the request.¹⁶

Courts tend to afford agencies leeway in determining the locations to search for responsive records. An agency, for example, "is not required to speculate about potential leads."¹⁷ Nor is an agency "obliged to look beyond the four corners of the request for leads to the location of responsive documents."¹⁸ But that does not mean that an agency "may ignore what it cannot help but know."¹⁹ No agency may ignore a responsive document that "clearly indicates the existence of [other] relevant documents, none of which were disclosed."²⁰

Here, in connection with its April 20th initial response to Empower Oversight's July 12th FOIA request, the OIP repeatedly ignored information among responsive documents that it produced that clearly notified it of the existence of responsive records that it did not produce.²¹ In that regard, numerous emails produced by the OIP reference attachments that it failed to produce. For example:

Page of the OIP's April 20th Initial Response	Email(s) Identification	Attachment(s) Description
3	March 5, 2021, email from/to Anita Singh; January 21, 2021, email from Ms. Hennessey to John Carlin	S Hennessey CV.pdf; resume
6, 13	April 13, 2021, email from Alivia Roberts to Shomari Figures; April 20, 2021, emails from Ms. Roberts to Ms. Figures	WHL-PPO Agenda 04.13.21.docx; WHL-

¹⁴ See, e.g., Larson v. Dep't of State, 565 F.3d 857, 869 (D.C. Cir. 2009) (affirming the adequacy of a search based on the agency's reasonable determination regarding records being requested).

¹⁵ Weisberg v. DOJ, 705 F.2d 1344, 1351 (D.C. Cir. 1983).

¹⁶ Larson, 565 F.3d at 869.

¹⁷ Kowalczyk v. DOJ, 73 F.3d 386, 389 (D.C. Cir. 1996).

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ Center for Nat'l Security Studies v. DOJ, 215 F. Supp. 2d 94, 110 (D.D.C. 2002), *aff'd in part, rev'd in part, and remanded on other grounds*, 331 F.3d 918 (D.C. Cir. 2003).

²¹ Alternatively, the OIP states in its April 20th initial response that it withheld in full 26 pages. However, the unproduced records that are referenced by the documents that the OIP produced cannot be among the 26 pages that the OIP withheld in full. The OIP points to FOIA Exemption b(5) in support of its withholding the 26 pages in full, but the unproduced records that are referenced by the documents that the OIP produced are not predecisional and deliberative. They are agendas, resumes, and onboarding forms.

		PPO Agenda 04.20.21.docx
22 - 23	A May 6, 2021, email thread involving Theresa Toll, Ms. Figures, Tracy Washington, Stacy Harwood, and Theresa Watson	Appointment forms for Ms. Hennessey, both with and without Attorney General Garland's approval

Accordingly, please review the scope the OIP's records search to determine whether its search can be accurately characterized as reasonably calculated to lead to the discovery of all responsive documents and, if not, correct the OIP's error and produce all non-exempt responsive records.

The NSD Withheld Records in Violation FOIA Section a(3)(A)

Section a(3)(A) of the FOIA requires Federal administrative agencies to promptly make available requested, non-exempt agency records in response to requests that reasonably describe records and are made in accordance with published rules stating the time, place, fees, and procedures to be followed.²²

The NSD, according to the plain terms of its May 27th response to Empower Oversight's July 12th FOIA request, withheld in full an undefined volume of records that it deemed responsive to the request. The NSD stated that it had "located records [plural] that are responsive to your request," but had "determined to release in part one record [singular]." The NSD did not cite to FOIA authority, *i.e.*, a FOIA exemption, that it claims supports its decision to withhold the undefined volume of records that it withheld. Nor, did it assert that Empower Oversight had failed to follow the DOJ's procedural rules governing the submission of FOIA requests.

Accordingly, please provide all non-exempt responsive records that NSD withheld in connection with its May 27th response.

The NSD's Redactions Pursuant to FOIA Exemption b(5) Extend Beyond What Is Allowable Under the FOIA

FOIA Exemption b(5) provides that the FOIA "does not apply to matters that are":

inter-agency or intra-agency memorandums or letters that would not be available by law to a party other than an agency in litigation with the agency, provided that the deliberative process privilege shall not apply to records created 25 years or more before the date on which the records were requested.²³

Courts have construed FOIA Exemption b(5) to "exempt those documents, and only those documents, that are normally privileged in the civil discovery context."²⁴ The United States Circuit Court of Appeals for the District of Columbia Circuit ("Circuit Court") has held that "all civil discovery rules" are incorporated into FOIA Exemption b(5).²⁵

²² See, 5 U.S.C. § 552(a)(3)(A).

²³ 5 U.S.C. § 552(b)(5).

²⁴ NLRB v. Sears, Roebuck & Co., 421 U.S. 132, 149 (1975); see also, Martin v. Office of Special Counsel, 819 F.2d 1181, 1184 (D.C. Cir. 1987).

²⁵ See, Martin, 819 F.2d at 1185.

One such civil discovery rule is the deliberative process privilege, whose purpose is to “prevent injury to the quality of agency decisions.”²⁶ In this setting, the Circuit Court has explained that “quality” encompasses encouraging frank discussions during policy making, preventing advance disclosure of decisions, and protecting against public confusion that may result from disclosure of reasons or rationales that were not in fact the grounds for agency decisions.²⁷

To claim the deliberative process privilege with respect to a record, the Circuit Court has held that an agency must show²⁸ that the record is “predecisional” (*i.e.*, “antecedent to the adoption of agency policy”)²⁹ and “deliberative” (*i.e.*, “a direct part of the deliberative process in that it makes recommendations and expresses opinions on legal or policy matters”).³⁰

To be “deliberative,” a record must reflect[] the give-and-take of the consultative process,” either by assessing the merits of a particular viewpoint, or by articulating the process used by the agency to formulate policy.³¹

Factual information, on the other hand, is not covered by the deliberative process privilege because the release of factual information does not expose the deliberations or opinions of agency personnel.³² Accordingly, factual information is typically available in civil discovery and its release is not considered to have a chilling effect on agency deliberations.³³

As part of its July 11th response to Empower Oversight’s July 12th FOIA request, the NSD produced 104 pages calendar entries with redactions it claimed to have made pursuant to FOIA Exemptions b(3), b(5), b(6), b(7)(C), b(7)(D), and b(7)(E). Regarding FOIA Exemption b(5), the text of the NSD’s letter appears to indicate that the scope of its exemption claims are limited to the deliberative process privilege.

Pages 3, 5, 8, 10, and 11 of the calendars entries include the redactions marked “b5 per NSC.” Generally, it is unclear to Empower Oversight, how an individual’s calendar entries can qualify as predecisional and deliberative. The decision is to have a meeting on a topic, and the calendar entry implements or records the decision. One may discuss the idea of having a meeting, and one may later cancel the meeting, but there is nothing predecisional about recording a meeting in a calendar or sending out invitations. When one makes such a recording or sends an invitation the decision has been made.

²⁶ Sears, 421 U.S. at 151.

²⁷ See, Russell v. Dep’t of the Air Force, 682 F.2d 1045, 1048 (D.C. Cir. 1982); Coastal States Gas Corp. v. DOE, 617 F.2d 854, 866 (D.C. Cir. 1980); Jordan v. DOJ, 591 F.2d 753, 772 – 773 (D.C. Cir. 1978).

²⁸ Coastal States Gas Corp., 617 F.2d at 866.

²⁹ See, Ancient Coin Collectors Guild v. U.S. Dep’t of State, 641 F.3d 504, 513 (D.C. Cir. 2011).

³⁰ See, Vaughn v. Rosen, 523 F.2d 1136, 1143 – 1144 (D.C. Cir. 1975).

³¹ Coastal States Gas Corp., 617 F.2d at 867.

³² Coastal States Gas Corp., 617 F.2d at 867; see also, McGrady v. Mabus, 635 F. Supp. 2d 6, 18 – 21 (D.D.C. 2009) (distinguishing between draft letters and memoranda that may be deliberative and data used during a decision making process, *e.g.*, key personnel data and evaluation summaries used in promotion decisions, which contain only factual material and are not deliberative).

³³ See, EPA v. Mink, 410 U.S. 73, 87 – 88 (1973); see also, Montrose Chem. Corp. v. Train, 491 F.2d 63, 66 (D.C. Cir. 1974) (holding that release of factual material would not be “injurious” to decision making process).

Similarly, there is nothing deliberative about a calendar entry. An invitee may indeed decline an invitation, but the calendar entry or invitation itself is not a recommendation or an opinion. It's a fact: we're having a meeting on this date, concerning this topic, and you're invited.

Additionally, page 60 includes a redaction marked "b5 per OIP." Immediately before the redaction the text concludes, "Rush has asked that we provide him with the following by the end of the week:". Whatever Rush requested may be in advance of an upcoming decision (*i.e.*, it may be predecisional), but it is not deliberative. It is a tasking: Rush has asked that the communicants provide him with a work product by the end of the week, and Ms. Hennessey is apprising (or reminding) Jay Bratt of the tasking.

As part of its May 27th response to Empower Oversight's July 12th FOIA request, the NSD produced a draft response to post-hearing questions for the record submitted by senators in connection with the nomination of Matthew G. Olsen for the position of Assistant Attorney General for the NSD. The draft recites the actual questions submitted by the senators followed by a proposed response. A great many of the responses are redacted in full purportedly pursuant to FOIA Exemption b(5). Empower Oversight cannot look behind the redactions to ensure that they do not include factual information that is not protected from disclosure by FOIA Exemption b(5). However, Empower Oversight notes that many of the fully redacted responses follow questions that unambiguously seek factual information, not opinions or policy recommendations. For example:

- Senator Grassley's Question 2(b): On what factual basis did you reach the conclusions contained in [three DOJ Alumni Letters dated May 11, 2020, June 10, 2020, and October 1, 2020]?
- Senator Grassley's Question 19: Does the president have the power to remove senior officials at his pleasure?
- Senator Grassley's Question 50(a): You previously stated that Guantanamo Bay hasn't been closed "because of the politics around the Guantanamo issue." Please identify the "misinformation about Guantanamo" that you referred to in your interview.
- Senator Tillis' Question 1: What are your qualifications to serve as Assistant Attorney General for the National Security Division?

Accordingly, please review the NSD's assertions of FOIA Exemption b(5) to confirm that the information that they redacted pursuant to the exemption was indeed predecisional and deliberative and, if not, produce unredacted copies of the documents in issue.

The OIP's Redactions Pursuant to FOIA Exemption b(6) Extend Beyond What Is Allowable Under the FOIA

FOIA Exemption b(6) provides that the FOIA "does not apply to matters that are ... personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy."³⁴ Courts have found that the plain language of the exemption requires agencies to engage in a four-step analysis of records that are potentially responsive to a FOIA request; agencies must:

³⁴ 5 U.S.C. § 552(b)(6).

1. Determine whether a record at issue constitutes a personnel, medical, or “similar” file;
2. Determine whether there is a significant privacy interest invoked by information in such records;
3. Evaluate the requester’s asserted FOIA public interest in disclosure of the records that include information that invoke a privacy interest; and
4. Balance competing interests to determine whether disclosure of the records “would constitute a clearly unwarranted invasion of personal privacy,” if there is a FOIA public interest in disclosure of records that include information that invokes a significant privacy interest.³⁵

Among the 21 pages that the OIP produced in its May 27th final response to Empower Oversight’s July 12th FOIA request are numerous redactions that were made purportedly pursuant to FOIA Exemption b(6). The redactions include the names of government officials.

According to an Office of Personnel Management (“OPM”) regulation, the names, titles, grades, salaries, duty stations, and position descriptions of officials of the United States government is public information.³⁶ Thus, the names of government officials generally should not be protected under FOIA Exemption b(6).³⁷

Further, regarding the public interest in the disclosure of Federal government officials’ names, the DOJ’s FOIA Guide states:

Public oversight of government operations is the essence of public interest under the FOIA, one of the purposes of which is to “check against corruption and to hold the governors accountable to the governed.” Accordingly, disclosure of information that informs the public of violations of the public trust has been found to serve a strong public interest and is accorded great weight in the balancing process. (Citations omitted.)

Here, page 7 of the OIP’s May 27th final response includes an April 19, 2021, email from Claudia Tweed of JMD to Ms. Toll, Valerie Mulcahy, and Shawn Flinn (all of JMD), advising:

Normally for NSD positions, NSD requires a completed Tier 5 (T5) BI and full clearance to bring someone onboard.

Have you heard from NSD that Ms. Hennessey can be brought onboard with a security waiver and interim clearance? I need to know in writing so I can let SEPS/PERSG know, too.

³⁵ See, Multi Ag Media LLC v. USDA, 515 F.3d 1224, 1229 (D.C. Cir. 2008); NARA v. Favish, 541 U.S. 157, 172 (2004); Wash. Post Co. v. HHS, 690 F.2d 252, 261 (D.C. Cir. 1982).

³⁶ 5 C.F.R. § 293.311(a).

³⁷ See, Kimberlin v. DOJ, 139 F.3d 944, 949 (D.C. Cir. 1998) (recognizing that government officials have a diminished privacy interest); see also, Leadership Conference on Civil Rights v. Gonzales, 404 F. Supp. 2d 246, 257 (D.D.C. 2005) (noting that Justice Department paralegals’ names and work numbers “are already publicly available from” OPM), *appeal dismissed voluntarily*, No. 06-5055, 2006 WL 1214937 (D.C. Cir. April 28, 2006).

If NSD says no, it'll likely be at least a couple of months before her T5 will be completed with the FBI and favorably adjudicated (reviewed and accepted) by PERSG.

Page 5 – 6 of the OIP's May 27th final response includes an April 23, 2021, email to Mr. Flinn, with a courtesy copy to Ms. Mulcahy, stating:

Shawn and Valerie. NSD will support the waiver for Susan Hennessey. I see below that we need to submit a Form 265. I will ask Jose Martinez to do that, he's on leave today but I'm sure he take [sic.] care of it ASAP. Is there anything else that we need to do at this time? Thanks,

The name of the sender, who is a representative of the NSD according to the "From" line at the top of the email, is redacted—purportedly pursuant to FOIA Exemption b(6)—in the "From" line at the top of the email and after the "Thanks" at the bottom. It's curious, that the name of the sender is the only name on the email that is redacted, particularly given that circumstances tend to suggest that the sender is a higher-level government official. In that regard, the sender—with an air of authority—conveys the NSD's position on a sensitive security matter to JMD; the sender twice refers to the NSD as "we" (*i.e.*, "we need to submit a Form 265" and "Is there anything else that we need to do at this time?"); and the sender indicates an ability to direct staff to take actions on behalf of the NSD (*i.e.*, "I will ask Jose Martinez to do that").

Given that the sender whose name is redacted advises the JMD that the NSD—in connection with its onboarding of Ms. Hennessey—is deviating from what Ms. Tweed described as the NSD's normal practice, there is a public interest in the issue and the name of such a central government official/participant.

Accordingly, please review the OIP's assertions of FOIA Exemption b(6) to confirm that the information that it redacted pursuant to the exemption indeed invoked personal privacy interests that were greater than the public's interest in understanding the DOJ's operations and, if not, produce unredacted copies of the documents in issue.

Conclusion

For the reasons set forth herein, Empower Oversight respectfully requests that the DOJ review the OIP's search for responsive records, the NSD's withholding of an undefined volume of records without assertion of applicable authority, and the NSD's and the OIP's initial determinations of the applicability of FOIA Exemptions b(5) and b(6), confirm that their searches, withholdings, and determinations are appropriate, and—if they are not—correct their errors and produce the non-exempt records or portions thereof.

Thank you for your time and consideration. Please don't hesitate to contact me with any questions.

Cordially,

[/Jason Foster/](#)

Jason Foster
Founder & President

Exhibit 1

EMPOWER OVERSIGHT

Whistleblowers & Research



July 12, 2021

VIA ELECTRONIC TRANSMISSION: FOIA STAR, NSDFOIA@USDOJ.GOV,
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Washington, DC 20530

RE: SUSAN HENNESSEY, FREEDOM OF INFORMATION ACT REQUEST

Dear Mr. Hibbard, Ms. Mallory, Ms. Driessen, and Ms. McFadden:

Empower Oversight Whistleblowers & Research (“Empower Oversight”) is a nonpartisan, nonprofit educational organization dedicated to enhancing independent oversight of government and corporate wrongdoing. We work to help insiders safely and legally report waste, fraud, abuse, corruption, and misconduct to the proper authorities help to hold those authorities accountable to act on such reports.

On June 30, 2021, Senators Charles Grassley and Ron Johnson wrote to Attorney General Merrick Garland raising a number of serious questions about Ms. Susan Hennessey’s work in the National Security Division.¹ In light of her prejudicial comments on Twitter about Special Counsel John Durham’s ongoing investigations, which she later deleted *en masse*, her

¹ “Senators Raise Concerns over More Conflicts of Interest and Political Bias in Recent Justice Dept. National Security Hire,” *Senate Judiciary Committee Press Release* ([Jun 30, 2021](#)); letter from Senators Charles Grassley and Ron Johnson to Attorney General Merrick Garland ([Jun 29, 2021](#)).

ability to appear objective and impartial in any official duties related to those investigation is obviously in question.

There is an acute public interest in access to documents relating to the Justice Department's hiring of Ms. Hennessey, and what steps, if any, the Department has taken to mitigate the appearance that Ms. Hennessey's biases could interfere with Special Counsel Durham's independent work.

Accordingly, pursuant to the Freedom of Information Act, 5 U.S.C. § 552, please provide all records relating to:

1. the Justice Department's consideration and hiring of Ms. Hennessey, including all records related to her interest in joining the Department, consideration of her for any Department position, any statements of recommendation, evaluations of her qualifications, records relating to interviews with Ms. Hennessey, notes from any such interviews, and any offers of employment;
2. all forms completed by Ms. Hennessey in the application, hiring, and onboarding processes at Department of Justice;
3. all conflicts Ms. Hennessey reported or the Department assessed to apply to her;
4. all recusals applicable to Ms. Hennessey, including all records relating to any recusal or draft recusal of Ms. Hennessey from matters related to Special Counsel Durham's inquiry;
5. all records relating to Ms. Hennessey's deleted tweets;
6. all records to or from the relevant Justice Department Ethics Officials, including Michael Nannes or Cynthia Shaw, regarding Ms. Hennessey;
7. Ms. Hennessey's calendar entries from the first day of her employment at the Department to the present;
8. all records sent or received by Ms. Hennessey that include the terms "Durham," "Special Counsel," "Steele," "dossier," "Clinesmith," or "Danchenko";
9. all records relating to Ms. Hennessey's previous employer, Lawfare, and leaks regarding Special Counsel Mueller's investigation.

Please ensure the Department's searches include all relevant custodians in the National Security Division, the Office of the Attorney General, the Office of the Deputy Attorney General, the Office of the Associate Attorney General, the Justice Management Division, the Professional Responsibility Advisory Office, the Department's Ethics Officials Michael Nannes and Cynthia Shaw, and the Department's White House Liaison.

Fee Waiver Request

Empower Oversight requests a waiver of fees associated with processing this request, in keeping with 5 U.S.C. § 552 (a)(4)(A)(iii). The information sought is in the public interest because it is likely to contribute significantly to the public understanding of the operations or activities of the government. Empower Oversight is a non-profit organization as defined under

Section 501(c)(3) of the Internal Revenue Code and has no commercial interest in making this request.

The public has a significant interest in the ongoing probe by Special Counsel Durham, the decision of the Biden Administration to hire an outspoken critic of that probe, and that decision's potential to affect the Durham probe absent proper Departmental safeguards.² Empower Oversight is committed to government accountability and public integrity through the power of information and is accordingly committed to public disclosure of documents via its website.

Request for Expedited Processing

Empower Oversight also requests expedited processing of this request. Special Counsel Durham's ongoing investigation is of massive public interest, and there is extensive interest in ensuring the integrity of his investigation. The information requested is urgently needed to inform the public concerning actual or alleged federal government activity, namely the steps the Department has taken to ensure Ms. Hennessey's appearances of bias do not affect Special Counsel Durham's investigation. The request is of widespread and exceptional media interest and the information sought involves possible questions about the government's integrity which affect public confidence.³ As noted above, Empower Oversight is engaged in disseminating information to the public through its website and working with media.⁴ It is important that this request be processed and the results publicly disseminated prior to the conclusion of Mr. Durham's work, so that the public can have confidence in its integrity.

Thank you for your prompt attention to this matter.

Cordially,

/Jason Foster/

Jason Foster
Founder & President

² See e.g., "New Biden DOJ staffer deleted over 39K tweets, including Russia collusion accusations," *Fox News* ([May 10, 2021](#)); "Susan Hennessey Brings Resistance Twitter to the Biden DOJ," *National Review* ([May 10, 2021](#)); "House Republicans see 'political bias' in DOJ hire of outspoken Trump critic," *The Washington Times* ([June 3, 2021](#)).

³ *Id.*

⁴ Mission, *Empower Oversight* (<https://empowr.us/mission/>).

Exhibit 2



U.S. Department of Justice
Office of Information Policy
Sixth Floor
441 G Street, NW
Washington, DC 20530-0001

Telephone: (202) 514-3642

April 20, 2022

Jason Foster
Empower Oversight
2615 Columbia Pike
#445
Arlington, VA 22204
jf@empowr.us

Re: FOIA-2021-01701
22-cv-00190 (EDVA)
VRB:SJD

Dear Jason Foster:

This is our first interim response to your Freedom of Information Act (FOIA) request dated and received in this Office on July 12, 2021, in which you requested records concerning the hiring of Susan Hennessey of the National Security Division.

Please be advised that initial searches have been conducted and records responsive to your request have been located. At this time, I have determined that twenty-five pages containing records responsive to your request are appropriate for release with withholdings made pursuant to Exemption 6 of the FOIA, 5 U.S.C. § 552(b)(6). Additionally, twenty-six pages are being withheld in full pursuant to Exemption 5 of the FOIA, 5 U.S.C. § 552(b)(5). Please note that certain withholdings were made on behalf of the Department's National Security Division. Exemption 5 pertains to certain inter- and intra-agency communications protected by civil discovery privileges. Exemption 6 pertains to information the release of which would constitute a clearly unwarranted invasion of personal privacy. Please be advised that we have considered the foreseeable harm standard when reviewing records and applying FOIA exemptions.

Additionally, because twenty-one pages originated with the National Security Division, we have referred that material to the National Security Division for processing and direct response to you.

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) (2018). 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.

If you have any questions regarding this response, please contact Lauren Wetzler of the United States Attorney's Office for the Eastern District of Virginia at 703-299-3700.

Sincerely,

A handwritten signature in blue ink, appearing to read 'V-R-B' followed by a horizontal flourish.

Vanessa R. Brinkmann
Senior Counsel

Enclosures

Anita Singh

From: Anita Singh
Sent: Friday, March 5, 2021 3:50 PM
To: Singh, Anita M. (ODAG)
Subject: Fwd: Thanks and Resume
Attachments: S Hennessey CV.pdf

----- Forwarded message -----

From: **john carlin** (b) (6) >
Date: Sat, Jan 23, 2021 at 4:17 PM
Subject: Fwd: Thanks and Resume
To: Anita Sing (b) (6)

Begin forwarded message:

From: Susan Hennessey (b) (6)
Date: January 21, 2021 at 11:00:44 AM EST
To: john carli (b) (6)
Subject: Thanks and Resume

?

John,

Congratulations again on returning to government and thanks so much for taking the time to chat this week. As requested, my resume is attached. I think I bring an unusual combination of legal and policy experience, organizational and process skills, and relationships across government and Congress. I know the dynamics of staffing are complex, but if there is a place where I can contribute to the vision you and Lisa have for the Department, I'd be honored to be a part of your team.

Best,
Susan

Singh, Anita M. (ODAG)

From: Singh, Anita M. (ODAG)
Sent: Friday, March 5, 2021 3:53 PM
To: Figures, Shomari C. (ODAG)
Subject: Hennessey Resume
Attachments: S Hennessey CV.pdf

For your process.

Singh, Anita M. (ODAG)

From: Singh, Anita M. (ODAG)
Sent: Friday, April 9, 2021 5:23 PM
To: Figures, Shomari C. (ODAG)
Subject: RE: NSD Hires

Senior Counsel, per NSD. Thanks!

From: Figures, Shomari C. (ODA (b) (6))
Sent: Friday, April 9, 2021 9:09 AM
To: Singh, Anita M. (ODA (b) (6))
Subject: NSD Hires

Both Susan Hennessey and Sophia Brill are cleared by WH. Can I proceed with Senior Counselor as title for both?

Shomari

Roberts, Alivia (ODAG)

From: Roberts, Alivia (ODAG)
Sent: Tuesday, April 13, 2021 2:24 PM
To: Figures, Shomari C. (ODAG)
Subject: WHL-PPO Agenda
Attachments: WHL-PPO Agenda 04.13.21.docx

See attached.

Singh, Anita M. (ODAG)

From: Singh, Anita M. (ODAG)
Sent: Tuesday, April 13, 2021 5:22 PM
To: Wiegmann, Brad (NSD)
Subject: RE: Hires

Both are approved as senior counsels. I looped Palmer into dates with Shomari, but last I heard was May 3. Thanks!

From: Wiegmann, Brad (NSD (b) (6))
Sent: Tuesday, April 13, 2021 5:17 PM
To: Singh, Anita M. (ODA (b) (6))
Subject: Hires

Hi Anita John D. told me that Sophie Brill and Susan Hennessey either have been approved or are likely to be approved to join us in the near future. Just for planning purposes, as we assign work and are hiring some other folks also right now, do you know what the timing is likely to be on either of them i.e. when we can expect them? Since Sophie has a clearance already, I assume she will be on a faster track but I don't know.

Figures, Shomari C. (ODAG)

From: Figures, Shomari C. (ODAG)
Subject: Read: RE: DOJ Onboarding: Susan Hennessey - Senior Counsel - National Security Division

Your message

To: Figures, Shomari C. (ODAG)
Subject: RE: DOJ Onboarding: Susan Hennessey - Senior Counsel - National Security Division
Sent: 4/15/2021 7:55 PM

was read on 4/15/2021 9:36 PM.

Figures, Shomari C. (ODAG)

From: Figures, Shomari C. (ODAG)
Sent: Monday, April 19, 2021 10:58 AM
To: Toll, Theresa (JMD)
Cc: Mulcahy, Valarie (JMD)
Subject: Re: DOJ Onboarding: Susan Hennessey - Senior Counsel - National Security Division

Will find out!

Sent from my iPhone

On Apr 19, 2021, at 8:58 AM, Toll, Theresa (JMD) (b) (6) > wrote:

?

Hi Shomari,

I don't think I see bar membership information on Ms. Hennessey's resume, would you happen to know where she is a member?

Also, confirming she will be joining DOJ as a Schedule C.

Thanks,
Theresa

From: Figures, Shomari C. (ODAG) (b) (6) >
Sent: Thursday, April 15, 2021 7:04 PM
To: Tweed, Claudia J (JMD) (b) (6) >; Toll, Theresa (JMD) (b) (6); Mulcahy, Valarie (JMD) (b) (6) Flinn, Shawn (JMD) (b) (6) >
Subject: Fwd: DOJ Onboarding: Susan Hennessey - Senior Counsel - National Security Division

Team,

Please find enclosed the resume and five year salary history for Susan Hennessey. She will be joining DOJ as Senior Counsel in the National Security Division.

Can we please start the HR and security processes.

Targeting a May 3, 2021 start date.

Thanks,
Shomari

Begin forwarded message:

Duplicative

Susan Hennessey

From: Susan Hennessey
Sent: Monday, April 19, 2021 3:09 PM
To: Figures, Shomari C. (ODAG)
Subject: Call

Shomari,

I saw I just missed your call. I am stuck in a meeting but will return your call shortly. Sorry to be playing phone tag today!

Susan

Attorney Detail Report *as of 04/19/2021*

Registration Number:	5344643
Name:	SUSAN KLEIN HENNESSEY
Business Name:	1775 Massachusetts Avenue NW
Business Address:	114 15th St NE Washington, DC 20002-6554
Business Phone:	(310) 570-5816
Email:	
Date Admitted:	04/17/2015
Appellate Division Department of Admission:	3rd
Law School:	HARVARD LAW SCHOOL
Registration Status:	Attorney - Currently Registered
Next Registration:	Aug 2021

Susan Hennessey

From: Susan Hennessey
Sent: Tuesday, April 20, 2021 9:03 AM
To: Figures, Shomari C. (ODAG)
Subject: Fwd: Certificate of Good Standing Request
Attachments: Certificate.pdf

Shomari,

Here is the NY Bar certificate of good standing that I requested yesterday. Please let me know if this is sufficient or if you need additional documentation.

Susan

----- Forwarded message -----

From: **Appellate Division** (b) (6)
Date: Tue, Apr 20, 2021 at 8:46 AM
Subject: Certificate of Good Standing Request
T (b) (6)

Dear Susan Klein Hennessey,

Attached please find the document requested.

Thank you,
Supreme Court, Appellate Division

Roberts, Alivia (ODAG)

From: Roberts, Alivia (ODAG)
Sent: Tuesday, April 20, 2021 10:27 PM
To: Figures, Shomari C. (ODAG)
Subject: Draft WHL-PPO Meeting Agenda
Attachments: WHL-PPO Agenda 04.20.21.docx

See attached.

Toll, Theresa (JMD)

From: Toll, Theresa (JMD)
Sent: Wednesday, April 21, 2021 2:12 PM
To: Figures, Shomari C. (ODAG)
Subject: Forms for Signature Brill,Hennessey,Tenorio 1019s and 1652 for signature
Attachments: Christopher Tenorio-draft 1652.pdf; Susan Hennessey 1019 draft.pdf; Sophia Brill-Draft 1019.pdf

Hi Shomari Please see forms attached. Most urgent is for Mr. Tenorio.

Thanks,
Theresa

Toll, Theresa (JMD)

From: Toll, Theresa (JMD)
Sent: Wednesday, April 21, 2021 7:19 PM
To: Figures, Shomari C. (ODAG)
Subject: Hennessey
Attachments: Susan Hennessey 1019 draft.pdf
Importance: High

Hi Shomari,

We recommend a GS 15, step 1 for Ms. Hennessey as Senior Counsel, NSD. If you confirm the salary the 1019 is attached (please use this, not the prior version which had an incomplete title)

Thanks,
Theresa

Palmer, David (NSD)

From: Palmer, David (NSD)
Sent: Tuesday, April 27, 2021 11:32 AM
To: Figures, Shomari C. (ODAG)
Cc: (b) (6) (NSD); Singh, Anita M. (ODAG)
Subject: RE: EOD Dates for NSD Senior Counsels

Got it, thank you. We'll plan on 5/10 for Susan and will await final word from you on whether Sophie will be joining us this Monday.

From: Figures, Shomari C. (ODA (b) (6))
Sent: Tuesday, April 27, 2021 10:56 AM
To: Palmer, David (NSD (b) (6))
C (b) (6) (NS (b) (6)) > Singh, Anita M. (ODAG (b) (6))
Subject: Re: EOD Dates for NSD Senior Counsels

?David - Apologies for missing this on Friday. We are targeting May 10th for Susan Hennessey and I'm waiting to confirm with Sophie Brill, but this upcoming Monday was the original target date.

Both are clear from an HR and agency security standpoint to start whenever.

Thanks,
Shomari

On Apr 27, 2021, at 8:50 AM, Palmer, David (NSD (b) (6)) wrote:

? Shomari, re-upping to see if you have an update on start date ETAs I can share with AAG Demers, who will ask me about it soon this morning. Thanks.

David

Sent from my iPhone

On Apr 23, 2021, at 2:21 PM, Palmer, David (NS (b) (6)) > wrote:

?

Hi Shomari, I'm adding NSD's E (b) (6), who advises me that Sophia Brill has cleared the necessary security review prior to her starting. Do we have an updated idea of when that might be?

Thanks,

David

From: Singh, Anita M. (ODAG (b) (6))

Sent: Monday, April 12, 2021 1:28 PM
To: Figures, Shomari C. (ODA (b) (6))
Cc: Palmer, David (NSD (b) (6))
Subject: RE: EOD Dates for NSD Senior Counsels

Thank you!

+ David Palmer (who is tracking this for NSD).

From: Figures, Shomari C. (ODAG (b) (6)) >
Sent: Monday, April 12, 2021 1:26 PM
To: Singh, Anita M. (ODAG (b) (6))
Subject: RE: EOD Dates for NSD Senior Counsels

Both are requesting May 3rd. I told both of them I would circle back in terms of start date expectations.

Shomari

From: Singh, Anita M. (ODAG (b) (6))
Sent: Monday, April 12, 2021 1:20 PM
To: Figures, Shomari C. (ODAG (b) (6))
Subject: EOD Dates for NSD Senior Counsels

Thoughts on when these two might on-board?

Anita M. Singh
Chief of Staff
Office of the Deputy Attorney General
(b) (6)

Figures, Shomari C. (ODAG)

From: Figures, Shomari C. (ODAG)
Sent: Wednesday, May 5, 2021 2:27 PM
To: Toll, Theresa (JMD)
Cc: Mulcahy, Valarie (JMD)
Subject: RE: Hennessey's Updated Pay Recommendation

Confirmed with candidate. We are tracking a May 10 start date for her. Do we have an updated 1019?

From: Toll, Theresa (JM (b) (6))
Sent: Friday, April 30, 2021 1:29 PM
To: Figures, Shomari C. (ODAG (b) (6))
Cc: Mulcahy, Valarie (JMD) (b) (6)
Subject: Hennessey's Updated Pay Recommendation

Hi Shomari,

We reviewed Ms. Hennessey's resume and can support the GS15, step 5 pay setting for a salary of \$163,345.

I will prepare a justification for setting pay above the minimum. As supporting documentation for the request, we will need either a pay stub or W2, if you can ask for this when you confirm the salary that would be helpful, otherwise we are happy to reach out to her and request the documentation.

Thanks,
Theresa

Toll, Theresa (JMD)

From: Toll, Theresa (JMD)
Sent: Wednesday, May 5, 2021 3:18 PM
To: Figures, Shomari C. (ODAG)
Subject: Hennessey 1019
Attachments: Susan Hennessey 1019 draft.pdf

Shomari,

Please see updated 1019 for Ms. Hennessey.

Thanks,
Theresa

Klapper, Matthew B. (OAG)

From: Klapper, Matthew B. (OAG)
Sent: Wednesday, May 5, 2021 11:25 PM
To: Figures, Shomari C. (ODAG)
Cc: Washington, Tracy T (OAG)
Subject: RE: Appointment Form for AG Signature

Thanks, approved.

From: Figures, Shomari C. (ODAG (b) (6))
Sent: Wednesday, May 5, 2021 10:33 PM
To: Klapper, Matthew B. (OA (b) (6))
Subject: Appointment Form for AG Signature

Klapper,

The appointment form for the below candidate needs to be signed by AG. Please approve and I will send to Stacy for signature.

Susan Hennessey Senior Counsel, National Security Division (Schedule C)

Thanks,
Shomari

Young, Torlanda

From: Young, Torlanda
Sent: Thursday, May 6, 2021 1:05 PM
To: Roberts, Alivia (ODAG); Maguire, Edward (JMD); Roper, Linda (JMD); Figures, Shomari C. (ODAG); Scope, Steven (JMD); Toll, Theresa (JMD); Mulcahy, Valarie (JMD); Thompson, Virginia (JMD)
Cc: Tengco, Jason
Subject: Action Required: DOJ Approval Notification

PPO approved the appointment of Chilakamarri and Hennessey. However, Chilakamarri's 1652 is in draft and Hennessey's 1652 is not in ESCS. Please upload the forms with signatures and send copies via email for immediate processing.

Tory Young
Office of the Director
U.S. Office of Personnel Management
1900 E Street NW | Washington, DC 20415
PHON (b) (6) MOBIL (b) (6)
EMA (b) (6)

Toll, Theresa (JMD)

From: Toll, Theresa (JMD)
Sent: Thursday, May 6, 2021 3:20 PM
To: Figures, Shomari C. (ODAG)
Subject: RE: Appointment Form for AG Signature

Received thanks!

From: Figures, Shomari C. (ODA (b) (6))
Sent: Thursday, May 6, 2021 3:19 PM
To: Toll, Theresa (JMD) (b) (6)
Subject: Fwd: Appointment Form for AG Signature

Sent from my iPhone

Begin forwarded message:

From: "Washington, Tracy T (OAG)" <(b) (6)>
Date: May 6, 2021 at 3:07:02 PM EDT
To: "Figures, Shomari C. (ODAG) (b) (6)", "Harwood, Stacy (OAG)"
(b) (6) "Watson, Theresa (OAG) (b) (6)"
Subject: RE: Appointment Form for AG Signature

?

AG signed appointment attached.

--Tracy

Tracy T. Washington
Staff Assistant
Office of the Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
(b) (6)

From: Washington, Tracy T (OAG)
Sent: Thursday, May 6, 2021 11:40 AM
To: Figures, Shomari C. (ODAG (b) (6)) >; Harwood, Stacy (OAG)
(b) (6) >; Watson, Theresa (OAG) (b) (6)
Subject: RE: Appointment Form for AG Signature

Yes, I will handle.

Tracy T. Washington
Staff Assistant
Office of the Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW

Washington, DC 20530

(b) (6)

From: Figures, Shomari C. (ODAG (b) (6)) >

Sent: Thursday, May 6, 2021 11:25 AM

To: Harwood, Stacy (OAG (b) (6)); Watson, Theresa (OAG

(b) (6)); Washington, Tracy T (OAG (b) (6)) >

Subject: Appointment Form for AG Signature

Good morning, team!

Can we please get the attached appointment form signed by the AG. Klapper has approved.

Susan Hennessey Senior Counsel, National Security Division

Thanks,
Shomari

(b) (6)

From: (b) (6)
Sent: Thursday, May 6, 2021 9:25 PM
To: Singh, Anita M. (ODAG)
Subject: Re: EOD Dates for NSD Senior Counsels

Correct. Her title is Senior Counsel

Sent from my iPhone

On May 6, 2021, at 9:09 PM, Singh, Anita M. (ODAG (b) (6)) wrote:

?
And to confirm she will be a senior counsel?

From: Figures, Shomari C. (ODAG (b) (6))
Sent: Thursday, May 6, 2021 4:42 PM
To: Palmer, David (NSD (b) (6))
C (b) (6) (NSD (b) (6)); Singh, Anita M. (ODAG (b) (6))
Subject: Re: EOD Dates for NSD Senior Counsels

?Hi, David!

Susan Hennessey is all set for onboarding on Monday (May 10th). Can someone on your team connect with her to answer some questions she has about reporting the office, etc?

Thanks,
Shomari

On May 4, 2021, at 7:09 PM, Figures, Shomari C. (ODAG (b) (6)) wrote:

?

Sophie Brill
(b) (6)

Sent from my iPhone

On May 4, 2021, at 11:29 AM, Palmer, David (NSD (b) (6)) wrote:

?

OK, thank you Shomari, we'll be ready for Susan to start Monday.

Do you have Sophie's current, preferred contact info? I'll be happy to reach out and schedule a start date directly with her. Thanks.

From: Figures, Shomari C. (ODAG) <(b) (6)>
Sent: Monday, May 3, 2021 6:59 PM
To: Palmer, David (NSD) (b) (6)
C (b) (6) (NSD) (b) (6); Singh, Anita M. (ODAG (b) (6))
Subject: Re: EOD Dates for NSD Senior Counsels

Susan will be next Monday (May 10th).

Sophie will be early June. Please feel free to engage with her directly on finalizing her start date.

Shomari

On May 3, 2021, at 3:53 PM, Palmer, David (NSD) (b) (6) wrote:

?

Shomari, checking back in for the latest on expected start dates for Sophie and Susan; will they both be here next Monday? Thanks.

David

From: Figures, Shomari C. (ODAG) (b) (6)
Sent: Tuesday, April 27, 2021 5:14 PM
T (b) (6) (NSD (b) (6))>
Cc: Palmer, David (NS (b) (6)); Singh, Anita M. (ODAG (b) (6))>
Subject: Re: EOD Dates for NSD Senior Counsels

Just spoke with Sophie. She will not start on May 3rd. I will circle back with a firm start date.

Shomari

Sent from my iPhone

On Apr 27, 2021, at 5:00 PM (b) (6)
(NSD (b) (6) wrote:

Duplicative

On Apr 27, 2021, at 8:50 AM,
(b) (6)

Palmer, David (NSD)

From: Palmer, David (NSD)
Sent: Friday, May 7, 2021 10:07 AM
To: Figures, Shomari C. (ODAG)
Cc: (b) (6) (NSD); Singh, Anita M. (ODAG)
Subject: RE: EOD Dates for NSD Senior Counsels

Thanks, Shomari. Yes, we're reaching out to her to get everything set up for her onboarding on Monday.

From: Figures, Shomari C. (ODAG) (b) (6)
Sent: Thursday, May 6, 2021 4:42 PM

Duplicative

Exhibit 3



U.S. Department of Justice

Justice Management Division

Office of General Counsel

Washington, D.C. 20530

VIA EMAIL

Jason Foster

President

Empower Oversight Whistleblower & Research

2615 Columbia Pike, # 445

Arlington, VA 22204

jf@empowr.us

RE: JMD FOIA # 126289 & NSD 21-291; *Empower Oversight v. DOJ*, 1:22-cv-190 (ED Va)

Dear Mr. Foster:

I am responding on behalf of the Justice Management Division (JMD) to your Freedom of Information Act (FOIA) request, dated July 12, 2021, for records relating to Ms. Susan Hennessey.

We have conducted a search and enclosed are records responsive to your request. We have identified 60 pages that may be released to you, some with redactions under FOIA Exemptions 6 and 7(C) for certain personally identifiable information including email addresses, phone numbers, social security numbers, home addresses, National Security Division (NSD) employee names, background check/criminal history information, and health information. We have determined that the privacy interests outweigh the public interest in disclosure of such information. JMD is also withholding a zoom meeting link under Exemptions 5 and 6.

We are also withholding 60 pages in full under FOIA Exemptions 6 and 7C. Most of these pages are routine onboarding and background investigation forms that consist of various types of personally identifiable information, including email addresses, phone numbers, social security numbers, home addresses, private employment salary history, banking information, retirement account information, background check/criminal history information, and health information falling under FOIA Exemptions 6 and/or 7C, and for which there is no reasonably segregable non-exempt information. We have determined that the privacy interests outweigh the public interest in disclosure of such information.

In addition, NSD identified to the JMD FOIA Office 11 pages of potential interest to JMD for a determination regarding release. We are releasing 9 pages with redactions under FOIA Exemptions 6 and/or 7C for certain personally identifiable information including email addresses, phone numbers, social security numbers, NSD employee names, background check/criminal history information, and health information. We have also redacted a zoom meeting link under Exemptions 5 and 6. JMD is withholding in full a 2-pag document referred by NSD that consists of non-segregable personally identifiable information, including email addresses, phone number, social security number, home address, background check/criminal history information, and health information falling under FOIA Exemptions 6 and/or 7C. We

have determined that the privacy interests outweigh the public interest in disclosure of such information.

If you have any questions regarding this response, you may contact Assistant United States Attorney Lauren Wetzler at lauren.wetzler@usdoj.gov or (703) 299-3752.

Sincerely,

Morton J. Posner
General Counsel

cc (via email with enclosure):

Michael Schrier – Michael.Schrier@huschblackwell.com
Bryan Saddler – bsaddler@empowr.us

Exhibit 4



U.S. Department of Justice

National Security Division

Washington, D.C. 20530

Mr. Jason Foster
EMPOWER OVERSIGHT
601 King Street, Suite 200
Alexandria, VA 22314
Via email: jf@empowr.us

NSD FOIA # 21-191
22-cv-00190 (PTG)

May 27, 2022

Dear Mr. Foster:

This is an interim response to your July 21, 2021 Freedom of Information Act (FOIA) request seeking records as described below. We assigned your request NSD # 21-191.

Your request sought, "*all records relating to:*

1. *the Justice Department's consideration and hiring of Ms. Hennessey, including all records related to her interest in joining the Department, consideration of her for any Department position, any statements of recommendation, evaluations of her qualifications, records relating to interviews with Ms. Hennessey, notes from any such interviews, and any offers of employment;*
2. *all forms completed by Ms. Hennessey in the application, hiring, and onboarding processes at Department of Justice;*
3. *all conflicts Ms. Hennessey reported or the Department assessed to apply to her;*
4. *all recusals applicable to Ms. Hennessey, including all records relating to any recusal or draft recusal of Ms. Hennessey from matters related to Special Counsel Durham's inquiry;*
5. *all records relating to Ms. Hennessey's deleted tweets;*
6. *all records to or from the relevant Justice Department Ethics Officials, including Michael Nannes or Cynthia Shaw, regarding Ms. Hennessey;*
7. *Ms. Hennessey's calendar entries from the first day of her employment at the Department to the present;*
8. *all records sent or received by Ms. Hennessey that include the terms "Durham," "Special Counsel," "Steele," "dossier," "Clinesmith," or "Danchenko";*

9. *all records relating to Ms. Hennessey's previous employer, Lawfare, and leaks regarding Special Counsel Mueller's investigation."*

We have conducted searches of the National Security Division (NSD)'s Office of the Assistant Attorney General (OAAG) and Executive Office and located records that are responsive to your request. We have reviewed these items and have determined to release in part one record, responsive to item 8 of your request, totaling 35 pages, enclosed. We are withholding portions of this record pursuant to the following FOIA exemptions set forth in 5 U.S.C. 552(b):

(5) which protects, "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."

(6) which permits the withholding of personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Please be advised that we considered the foreseeable harm standard when reviewing this record and applying FOIA exemptions.

We continue to coordinate the review of records responsive to item (7) of your request with other equity holding agencies and DOJ components. We will release these additional records as soon as the necessary consultations have been completed.

As this request is the subject of litigation, we are omitting our standard appeal section. Please direct any communications to Assistant United States Attorney Lauren Wetzler of the Eastern District of Virginia at lauren.wetzler@usdoj.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Kevin G. Tiernan".

Kevin G. Tiernan
Records and FOIA

Enclosure

Exhibit 5



U.S. Department of Justice
Office of Information Policy
Sixth Floor
441 G Street, NW
Washington, DC 20530-0001

Telephone: (202) 514-3642

May 27, 2022

Jason Foster
Empower Oversight
2615 Columbia Pike
#445
Arlington, VA 22204
jf@empowr.us

Re: FOIA-2021-01701
22-cv-00190 (EDVA)
VRB:SJD

Dear Jason Foster:

This is our second and final response to your Freedom of Information Act (FOIA) request dated and received in this Office on July 12, 2021, in which you requested records concerning the hiring of Susan Hennessey of the National Security Division.

Previously, we provided you one response, on April 20, 2022. We have now completed our work on your request and I have determined that an additional twenty-one pages containing records responsive to your request are appropriate for release with withholdings made pursuant to Exemptions 5 and 6 of the FOIA, 5 U.S.C. § 552(b)(5) and (b)(6). Additionally, forty-seven pages are being withheld in full pursuant to Exemption 5 of the FOIA, 5 U.S.C. § 552(b)(5). Please note that certain withholdings were made on behalf of the Department's National Security Division. Exemption 5 pertains to certain inter- and intra-agency communications protected by civil discovery privileges. Exemption 6 pertains to information the release of which would constitute a clearly unwarranted invasion of personal privacy. Please be advised that we have considered the foreseeable harm standard when reviewing records and applying FOIA exemptions.

Please note that certain pages within this production contain highlighted information. The highlighting was present on these pages as located by OIP and were not made as part of our FOIA review process.

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) (2018). 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.

If you have any questions regarding this response, please contact Lauren Wetzler of the United States Attorney's Office for the Eastern District of Virginia at 703-299-3700.

Sincerely,

A handwritten signature in blue ink, appearing to read 'V-R-B' followed by a horizontal flourish.

Vanessa R. Brinkmann
Senior Counsel

Enclosures

Susan Hennessey

From: Susan Hennessey
Sent: Friday, April 23, 2021 1:07 PM
To: Figures, Shomari C. (ODAG)
Subject: Start date?

Hi Shomari,

Hope you are well. I wanted to see if there were any updates regarding my HR processing, salary determination, or clearance waiver. Should I still be operating on the assumption of a May 3 start date? I know there are a lot of moving pieces on your end and there might not be any updates to share yet. My current employer is pushing me for as much clarity as possible, so I want to ensure I'm staying as up to date as I can.

Thanks,
Susan

Figures, Shomari C. (ODAG)

From: Figures, Shomari C. (ODAG)
Sent: Friday, April 23, 2021 3:30 PM
To: Toll, Theresa (JMD)
Subject: Re: Susan Hennessey - Senior Counsel - National Security Division

I have not connected with her yet

Sent from my iPhone

On Apr 23, 2021, at 2:26 PM, Toll, Theresa (JMD (b) (6)) > wrote:

?

Hi Shomari,

Have you had a chance to discuss Ms. Hennessey's salary with her? I don't want to get ahead of you in answering her benefits questions.

Thanks,
Theresa

From: Flinn, Shawn (JMD (b) (6))
Sent: Friday, April 23, 2021 3:21 PM
To: Tweed, Claudia J (JM (b) (6))
C (b) (6) (NSD (b) (6)) >; Mulcahy, Valarie (JM (b) (6))
Toll, Theresa (JMD (b) (6))
Subject: RE: DOJ Onboarding: Susan Hennessey - Senior Counsel - National Security Division

Thanks Claudia. Including Theresa who can have the Exec Resources staff follow up on the request below.

Shawn

Shawn Flinn
**Human Resources Director/
Deputy Chief Human Capital Officer**
U.S. Department of Justice

(b) (6)

From: Tweed, Claudia J (JMD (b) (6))
Sent: Friday, April 23, 2021 3:19 PM
To: Flinn, Shawn (JMD) <(b) (6)>
C (b) (6) (NSD (b) (6)) >; Mulcahy, Valarie (JMD (b) (6))
Subject: Re: DOJ Onboarding: Susan Hennessey - Senior Counsel - National Security Division

?Great. Thanks, all.

I just received a call from Jose. He will forward the 265 form and in Monday I will send her security waiver packet to SEPS/PERSG. My security liaison has already logged off for today and I'm setting up a new laptop.

I expect a quick approval from PERSG next week.

If I need anything else, I will be sure to let you all know.

Shawn and Valarie (b) (6)

Her cell #: (b) (6)

Thanks! Have a nice weekend.

Claudia J. Tweed



Claudia J. Tweed | Program Specialist (Security)
US DOJ/JMD/HR Operations/ Staffing and Classification Section
(b) (6)

Please let my leadership know how I am doing. [Click Here](#) to provide feedback.

On Apr 23, 2021, at 2:49 PM, Flinn, Shawn (JMD) (b) (6) > wrote:

?

Thank (b) (6) Copying Claudia Tweed so she can advise on next steps.

Shawn

Shawn Flinn
Human Resources Director/
Deputy Chief Human Capital Officer
U.S. Department of Justice

(b) (6)

From (b) (6) (NSD (b) (6))
Sent: Friday, April 23, 2021 2:23 PM
To: Flinn, Shawn (JMD) (b) (6)
Cc: Mulcahy, Valarie (JMD) (b) (6)
Subject: RE: DOJ Onboarding: Susan Hennessey - Senior Counsel - National Security Division

Shawn and Valerie: NSD will support the waiver for Susan Hennessey. I see below that we need to submit a Form 265. I will ask Jose Martinez to do that, he's on leave today but I'm sure he take care of it ASAP. Is there anything else that we need to do at this time? Thanks,

(b) (6)

From: Flinn, Shawn (JM (b) (6))
Sent: Friday, April 23, 2021 9:06 AM
T (b) (6) (NSD (b) (6))
Cc: Mulcahy, Valarie (JMD (b) (6))
Subject: FW: DOJ Onboarding: Susan Hennessey - Senior Counsel - National Security Division

Good Mornin (b) (6)

Just wanted to follow-up on this new political for NSD. Feel free to call if you wish to discuss.

Thanks,
Shawn

Shawn Flinn
**Human Resources Director/
Deputy Chief Human Capital Officer**
U.S. Department of Justice

(b) (6) (cell)

From: Tweed, Claudia J (JMD (b) (6))
Sent: Friday, April 23, 2021 8:37 AM
To: Flinn, Shawn (JMD (b) (6)) >; Toll, Theresa (JMD (b) (6))
(b) (6); Mulcahy, Valarie (JMD (b) (6))
Subject: RE: DOJ Onboarding: Susan Hennessey - Senior Counsel - National Security Division

Good morning Shawn, Theresa, and Valarie,

Shawn – just sending a *gentle* inquiry/email to follow up to see if you’ve heard back from NSD on their appointee, Ms. Susan Hennessey?

If she’s coming onboard with a waiver, NSD will also need to request a clearance for her, too on form 265. The Security Program Manager within NSD would know about that form. If they forward the 265 to me, I can attach it to her JSTARS file so SEPS/PERSG can process it when they process her security forms.

Claudia J. Tweed

<image001.png>

Claudia J. Tweed | Program Specialist (Security)
US DOJ/JMD/HR Operations/ Staffing and Classification Section
☎ (b) (6) |

Please let my leadership know how I am doing. [Click Here](#) to provide feedback.

From: Flinn, Shawn (JMD (b) (6))
Sent: Monday, April 19, 2021 7:38 PM
To: Tweed, Claudia J (JMD (b) (6)); Toll, Theresa (JMD (b) (6))

(b) (6) >; Mulcahy, Valarie (JMD (b) (6))

Subject: RE: DOJ Onboarding: Susan Hennessey - Senior Counsel - National Security Division

Claudia, thanks for flagging this. I reached out to NSD and let you know what I find out.

Shawn

Shawn Flinn
**Human Resources Director/
Deputy Chief Human Capital Officer**
U.S. Department of Justice

(b) (6)

From: Tweed, Claudia J (JMD (b) (6))

Sent: Monday, April 19, 2021 4:30 PM

To: Toll, Theresa (JM (b) (6)) >; Mulcahy, Valarie (JMD

(b) (6) >; Flinn, Shawn (JMD (b) (6)) >

Subject: RE: DOJ Onboarding: Susan Hennessey - Senior Counsel - National Security Division

Theresa, Valarie, and Shawn,

I just wanted to ask you about something that I spoke to Shomari about... Normally for NSD positions, NSD requires a completed Tier 5 (T5) BI and full clearance to bring someone onboard.

Have you heard from NSD that Ms. Hennessey can be brought onboard with a security waiver and interim clearance? I need to know in writing so I can let SEPS/PERSG know, too.

If NSD says no, it'll likely be at least a couple of months before her T5 will be completed with the FBI and favorably adjudicated (reviewed and accepted) by PERSG.

Ms. Hennessey has submitted her SF 86 and forms. I'm just waiting for her fingerprints to clear so I can submit her paperwork to PERSG. I just need to know how to proceed:

- With a request for a waiver or
- Submit for a full T5 BI and have Ms. Hennessey wait
- Or are you switching positions and organizations for her then will move her after her T5 is completed? If she changes orgs, I can request a waiver for her.

If you have any questions, please do let me know.

Claudia J. Tweed

Claudia J. Tweed | Program Specialist (Security)

US DOJ/JMD/HR Operations/ Staffing and Classification Section

<image002.png>

 (b) (6)

Please let my leadership know how I am doing. [Click Here](#) to provide feedback.

From: Figures, Shomari C. (ODAG) (b) (6)

Sent: Monday, April 19, 2021 4:20 PM

To: Tweed, Claudia J (JMD) <(b) (6)>; Toll, Theresa (JMD)
(b) (6)>; Mulcahy, Valarie (JMD (b) (6)>; Flinn, Shawn
(JMD) (b) (6)
Subject: Fwd: DOJ Onboarding: Susan Hennessey - Senior Counsel - National Security Division

Susan Hennessey bar info.

Sent from my iPhone

Begin forwarded message:

From: Susan Hennessey (b) (6)
Date: April 19, 2021 at 2:43:28 PM CDT
To: "Figures, Shomari C. (ODAG) (b) (6)>
**Subject: Re: DOJ Onboarding: Susan Hennessey - Senior Counsel -
National Security Division**

?
Shomari,

Per our conversation, I am a member of the New York State bar and my Bar
Number is 5344643. Below is a screenshot of my current status in good standing. I
do not believe I have a physical bar card but I think I can obtain an electronic copy of
the card. I will request that now and respond to this email once I have it.
<image003.png>

On Thu, Apr 15, 2021 at 2:52 PM Susan Hennessey

(b) (6) wrote:

Shomari,

I wanted to touch base regarding timing from here. I haven't heard from HR
regarding starting the SF86 form or a salary determination. This Friday and
Saturday I will be travelling and unable to access a computer to submit the
forms (but I will be reachable by phone). My guess is that deadlines won't
fall over the weekend, but I wanted to make sure you were aware of the
timing in advance, in case there is a need for me to submit the SF86 within
24 hours of receipt. Please let me know if you need anything else from me to
avoid creating additional delay.

Best,
Susan

On Tue, Apr 13, 2021 at 7:13 PM Susan Hennessey

(b) (6) > wrote:

Shomari,

The requested information is as follows and attached.

Full Legal Name: Susan Julia Klein Hennessey

I have attached two resume documents. One is my updated resume and

complete CV. Additionally, I have attached a supplementary document, describing in detail my current roles and responsibilities because the precise breakdown of my dual-hatted positions is a bit complex.

Additionally, I have attached a 5 year salary history. My salary includes my Brookings annual salary, CNN annual salary, and aggregated speaking, writing, and teaching fees. I provided both the annual aggregates and the breakdowns. I am currently on vacation and only have access to my tax returns to reconstruct my salary history, since my detailed financial documents are at home and I did not want to delay the process by waiting. I am confident that these numbers did not overstate my annual income, but it may understate it slightly.

Please let me know if this documentation is sufficient and if there is anything else I can provide.

Best,
Susan

On Tue, Apr 13, 2021 at 9:42 AM Figures, Shomari C. (ODAG)

(b) (6) > wrote:

Susan,

Congratulations on the conditional offer to join the Department of Justice (DOJ) as Senior Counsel in the National Security Division!

I am the White House Liaison at DOJ and I will help guide you through the hiring process. **To get started, please respond to this email within 24 hours with the below requested information.** We will share the information only with DOJ Security and HR.

All candidates must successfully satisfy all conditions of employment required of all DOJ employees, including a background investigation. Additionally, candidates for executive branch appointed positions, including the role for which you are under consideration, must go through a vetting process conducted by the White House Presidential Personnel Office. **Therefore, we do not advise notifying your current employer of any plans to leave your current job until you are informed that you have been cleared by both DOJ and the White House.** Additionally, we do not advise making any substantial plans or financial commitments based on an expectation of starting this job at DOJ until you are informed that you have been cleared by both DOJ and the White House.

Requested information

Full Legal Name.

Updated Resume. This should be a thorough explanation of your responsibilities in each of your previous positions, especially your most recent role.

5 year salary history. For now, we just need the estimated dollar amount of income for each of the past 5 years. You do not need to submit documentation of the salary history now, but you should go ahead and start gathering that information in case DOJ HR requests it.

What Happens Next?

DOJ Security and HR teams will reach out to you to start the agency process. They will send you several documents you will be required to complete and they will initiate the Form SF-86 process for you through an online portal called E-Qip. This is where you will input the required information for the security process. You will also likely have to schedule appointments for drug testing and fingerprinting.

DOJ HR will review your salary history and resume and make a salary determination that I will call you to discuss. They may also request additional information. Time is of the essence here, so please respond with the requested information **within 24 hours**.

Please let me know if you have any questions.

Thank you,
Shomari

Figures, Shomari C. (ODAG)

From: Figures, Shomari C. (ODAG)
Sent: Thursday, March 4, 2021 9:51 PM
To: Eichner, Stacy EOP/WHO; Blecha, Isabella C. EOP/WHO
Cc: Roberts, Alivia (ODAG); Cortez, Corina EOP/WHO
Subject: Slate Request - National Security Division - Counselor

Team,

Leadership would like to consider the below candidates for a Counselor role in the National Security Division (NSD) at the Department of Justice. Please let us know if PPO approves the slate or has additional candidates to consider.

Position: Counselor

Office: National Security Division

Type: NC-SES

Description: This role will provide senior level legal and policy support to the National Security Division leadership. The Counselor will provide advise and guidance to the Assistant Attorney General and Deputy Assistant Attorneys General on ongoing litigation and other sensitive matters handled in the Division.

Proposed Candidates

[Susan Hennessy](#)

(b) (6)

(b) (6)

Figures, Shomari C. (ODAG)

From: Figures, Shomari C. (ODAG)
Sent: Wednesday, March 31, 2021 9:29 AM
To: Eichner, Stacy EOP/WHO; Cortez, Corina EOP/WHO; Roberts, Alivia (ODAG)
Cc: Blecha, Isabella C. EOP/WHO; Oglesby, Mark J. EOP/WHO
Subject: RE: IMPORTANT: Need Vacancy Sheets
Attachments: Vacancy Sheet - NSD - Counsel (1).docx

See answers highlighted below. Working on decision memo templates now.

Vacancy sheet for an NSD Counselor role attached. Do I need to submit another one for the second role? It's the exact same position.

Shomari

From: Eichner, Stacy EOP/WH (b) (6)
Sent: Wednesday, March 31, 2021 9:03 AM
To: Cortez, Corina EOP/WH (b) (6); Figures, Shomari C. (ODAG)
(b) (6); Roberts, Alivia (ODA (b) (6)
Cc: Blecha, Isabella C. EOP/WH (b) (6); Oglesby, Mark J. EOP/WHO
(b) (6)
Subject: RE: IMPORTANT: Need Vacancy Sheets

Here is what we need to submit this all ASAP this morning. If we don't get the vacancy sheets or people in apply by today it is going to be very hard to get it in the pipeline for this senior staff review over the weekend/offers as early as Monday if they get thru vet in time.

Action items/questions in bold.

We need the decision memo template filled out for all 6 people by 11:30 ET so we can turn in decision memo that was due yesterday.

[Position], [Agency]

[Name]

[Name] currently serves as [Occupation], [Employer]

Referrals: [List of referral sources *if the role is policy related, please note if relevant policy council was engaged in sourcing or slating*]

NSD

NEED 2 VACANCY SHEETS

2 Senior Counselors in NSD

(b) (6) Only have email address in apply. **Can we ask her to submit form ASAP so we can collect more data for vetting team**

Susan Hennessey

4 Civ DAAG

Christopher Tenorio Immigration litigation (interviewed during transition)

- No action item needed

Varu Chilakamarri Tort (b) (6)

- It says Lauren Wetzler is appointed in this Torts position is this accurate?? No one is appointed as Torts DAAG. Wetzler is not an appointee at all.
- If so, will need 2nd vacancy sheet
- It says Varu is appointed as DOJ Associate AG DAAG. Is that accurate and are we just moving him to Torts position? Varu is not appointed as a DAAG in the Associate's office. She is not currently an appointee. She is a career DOJ employee in ENRD.
- Varu has very little details in apply. Can we ask him to fill out form again? I will have her submit through apply.

Arun Rao - Consumer Protection (interview during transition)

- Apply says he is already appointed. Is that not accurate? Arun is not appointed. He is not currently a DOJ appointee/employee.

Brian Netter Fed Programs

- No action items needed

-----Original Message-----

From: Cortez, Corina EOP/WHO

Sent: Tuesday, March 30, 2021 10:18 PM

To: Shomari C. Figures (b) (6) >; Alivia Rober (b) (6)

Cc: Eichner, Stacy EOP/WHO (b) (6) >; Blecha, Isabella C. EOP/WHO

(b) (6) >

Subject: IMPORTANT: Need Vacancy Sheets

Just want to make sure you send back the vacancy sheets first thing tomorrow so we can get hiring steps underway before our Decision Meeting. Our memo was due tonight, but I asked Stacy to slip in the latest DOJ staffing requests for single slates so I can get authorization at the meeting. However, in order to put them in the system, we need the vacancy sheets.

Sent from my iPhone

Vacancy Information

To be completed by the WHL and approved by the Cluster for all new roles or vacant roles being prioritized for an upcoming search

Vice

Previous office holder, if the role is vacant, please list last known office holder.

First Name:

Middle Name:

Last Name:

Full Name:

Phone Number:

Email:

Apply URL (if applicable):

Appointment Details

Position Name: DOJ – National Security Division – Counselor

Short Name: DOJ – NSD – Counselor

Appointment Type: Schedule C

Temporary or Permanent: Permanent

Clearance Required: TS/SCI

Cluster Position Owner:

Functional Area:

Vet Level:

Likely Campaign: No

Max Salary/GS Level: GS 15

Biden Policy Priority: National Security

Min Salary/GS Level: GS 14

First Assistant (if applicable): N/A

Plum Book Salary/GS Level: N/A

Decision Level: Appointee

Policy Priority: National Security

2016 Plum Book: No

2020 Plum Book: No

--

Slating Detail

Office Description:

<i>Min. 3-5 Sentences</i>

The core responsibilities of the Counsel are to support the work of the Assistant Attorney General for the National Security Division by providing legal guidance and strategic advice to office leadership. The Senior Counsel will conduct legal research, case tracking, and monitor developments in both the enforcement and policy spaces at DOJ and across the Administration.

Primary Responsibilities:

<ul style="list-style-type: none">• <i>Min. 5 bullets</i>

- Track cases and developments within an assigned portfolio
- Conduct legal research on assigned issues
- Monitor relevant events related to the portfolio occurring at other agencies
- Review relevant proposed legislation and regulations
- Prepare briefing materials for office leadership
- Coordinate work within the portfolio with other offices at DOJ.

Candidate Qualifications:

<ul style="list-style-type: none">• <i>Min. 5 bullets</i>

- Minimum 5 years of legal experience working in national security law or policy
- Excellent legal researcher and writer
- Experience interacting high level government principals
- Familiarity with the work of the National Security Division of the Department of Justice
- Familiarity with the current state of national security related litigation and policy matters
- Experience working with sensitive or classified information
- Ability to obtain a TS/SCI security clearance.

Figures, Shomari C. (ODAG)

From: Figures, Shomari C. (ODAG)
Sent: Wednesday, March 31, 2021 10:05 AM
To: Eichner, Stacy EOP/WHO; Cortez, Corina EOP/WHO; Roberts, Alivia (ODAG)
Cc: Blecha, Isabella C. EOP/WHO; Oglesby, Mark J. EOP/WHO
Subject: RE: IMPORTANT: Need Vacancy Sheets

Counselor

From: Eichner, Stacy EOP/WH (b) (6)
Sent: Wednesday, March 31, 2021 9:37 AM
To: Figures, Shomari C. (ODAG (b) (6); Cortez, Corina EOP/WHO
(b) (6); Roberts, Alivia (ODAG (b) (6)
Cc: Blecha, Isabella C. EOP/WH (b) (6); Oglesby, Mark J. EOP/WHO
(b) (6)
Subject: RE: IMPORTANT: Need Vacancy Sheets

Ok confirming the title is Counselor and not Counsel?

From: Figures, Shomari C. (ODA (b) (6)
Sent: Wednesday, March 31, 2021 9:34 AM
To: Eichner, Stacy EOP/WHO (b) (6); Cortez, Corina EOP/WHO
(b) (6); Roberts, Alivia (ODAG (b) (6)
Cc: Blecha, Isabella C. EOP/WH (b) (6); Oglesby, Mark J. EOP/WHO
(b) (6)
Subject: RE: IMPORTANT: Need Vacancy Sheets

Discussed last night and they want Counselor title.

From: Eichner, Stacy EOP/WH (b) (6)
Sent: Wednesday, March 31, 2021 9:32 AM
To: Figures, Shomari C. (ODAG (b) (6); Cortez, Corina EOP/WHO
(b) (6); Roberts, Alivia (ODAG (b) (6)
Cc: Blecha, Isabella C. EOP/WH (b) (6); Oglesby, Mark J. EOP/WHO
(b) (6)
Subject: RE: IMPORTANT: Need Vacancy Sheets

We can just make a copy and label is #2. I thought they were senior counsel? No?

From: Figures, Shomari C. (ODAG (b) (6)
Sent: Wednesday, March 31, 2021 9:29 AM

Duplicative

Figures, Shomari C. (ODAG)

From: Figures, Shomari C. (ODAG)
Sent: Wednesday, March 31, 2021 11:41 AM
To: Eichner, Stacy EOP/WHO; Blecha, Isabella C. EOP/WHO; Oglesby, Mark J. EOP/WHO
Cc: Roberts, Alivia (ODAG)
Subject: RE: Decision Memo Info

That works

From: Eichner, Stacy EOP/WH (b) (6) >
Sent: Wednesday, March 31, 2021 11:40 AM
To: Figures, Shomari C. (ODAG (b) (6); Blecha, Isabella C. EOP/WHO
(b) (6); Oglesby, Mark J. EOP/WH (b) (6)
Cc: Roberts, Alivia (ODAG (b) (6)
Subject: RE: Decision Memo Info

For the bottom 4 should we just do referrals as DOJ leadership?

From: Figures, Shomari C. (ODA (b) (6)
Sent: Wednesday, March 31, 2021 11:31 AM
To: Eichner, Stacy EOP/WH (b) (6); Blecha, Isabella C. EOP/WHO
(b) (6); Oglesby, Mark J. EOP/WH (b) (6)
Cc: Roberts, Alivia (ODA (b) (6)
Subject: Decision Memo Info

Deputy Assistant Attorney General, Civil Division (Federal Programs), Department of Justice

Brian Netter

Brian Netter currently serves as a Partner at Mayer Brown.

Referrals: Merrick Garland

Deputy Assistant Attorney General, Civil Division (Consumer Protection), Department of Justice

Arun Rao

Arun Rao currently serves as President at Investigative Group International.

Referrals: Vanita Gupta

Deputy Assistant Attorney General, Civil Division (Immigration Litigation), Department of Justice

Christopher Tenorio

Christopher Tenorio currently serves as an Assistant United States Attorney at the United States Attorney Office in the Southern District of California.

Referrals:

Deputy Assistant Attorney General, Civil Division (Torts), Department of Justice

Varu Chilakamarri

Varu Chilakamarri currently serves as an Appellate Attorney and Counselor in the Environment and Natural Resources Division at the Department of Justice.

Referrals:

Counselor, National Security Division, Department of Justice

(b) (6)

(b) (6)

Referrals:

Counselor, National Security Division, Department of Justice

Susan Hennessey

Susan Hennessey currently serves as a Senior Fellow in National Security in Governance Studies at the Brookings Institution.

Referrals:

Oglesby, Mark J. EOP/WHO

From: Oglesby, Mark J. EOP/WHO
Sent: Thursday, April 8, 2021 9:15 PM
To: Figures, Shomari C. (ODAG); Roberts, Alivia (ODAG)
Cc: Cortez, Corina EOP/WHO; Eichner, Stacy EOP/WHO; Blecha, Isabella C. EOP/WHO
Subject: Conditional Offer Approval

Good Evening

You are clear to make a conditional offer to Susan Hennessey. When you send the email, please CC me and Stacy so that we can track their written response to the offer.

Once Susan gets through your agency process, please send us the following info at least 1 week before they begin: Full Name, Position, Title, Salary Step, Salary dollar amount, Start Date. All of this information should match exactly with what you send to OPM.

Please let me know if you have any questions.

Best,
Mark

Mark Oglesby (he/him)
Staff Assistant
Office of Presidential Personnel | The White House
Work Cel (b) (6)
[Join Us!](#)

Susan Hennessey

From: Susan Hennessey
Sent: Monday, April 12, 2021 9:38 PM
To: Figures, Shomari C. (ODAG)
Cc: Eichner, Stacy EOP/WHO; Oglesby, Mark J. EOP/WHO
Subject: Re: Conditional Offer

Shomari,

It was great talking with you today. I am delighted to accept the conditional offer. I'll be sure to return paperwork expeditiously, so as not to delay the process. As I mentioned, I have one existing commitment on April 26th in my current position and would be able to start at any point after that.

Best,
Susan

On Mon, Apr 12, 2021 at 11:31 AM Figures, Shomari C. (ODAG (b) (6)) wrote:
Susan,

Congratulations again on the conditional offer to join DOJ as **Senior Counsel in the National Security Division!** I have copied the White House Presidential Personnel Office team to this email.

Please respond to this email within 24 hours accepting or declining the conditional offer. Upon receiving your response, I will follow up with you on next steps.

As a reminder, all candidates must be approved by the White House and DOJ. Therefore, we do not advise notifying your current employer of any plans to leave your current job until you are informed that you are cleared by both DOJ and the White House. Additionally, we do not advise making any substantial plans or financial commitments based on an expectation of starting this job at DOJ until you are informed that you are cleared by both DOJ and the White House.

Please let me know if you have any questions!

Thank you,
Shomari

Figures, Shomari C. (ODAG)

From: Figures, Shomari C. (ODAG)
Sent: Thursday, May 6, 2021 12:49 PM
To: Oglesby, Mark J. EOP/WHO
Cc: Eichner, Stacy EOP/WHO; Srivastava, Nina C. EOP/WHO
Subject: RE: OPM Approvals

GS 15, Step 5

From: Oglesby, Mark J. EOP/WH (b) (6)
Sent: Thursday, May 6, 2021 12:46 PM
To: Figures, Shomari C. (ODAG (b) (6)
Cc: Eichner, Stacy EOP/WHO (b) (6); Srivastava, Nina C. EOP/WHO (b) (6)
Subject: RE: OPM Approvals

Hey Shomari what GS number and step is Susan Hennessey?

From: Figures, Shomari C. (ODAG) <(b) (6)>
Sent: Thursday, May 6, 2021 12:29 PM
To: Oglesby, Mark J. EOP/WH (b) (6)>
Cc: Eichner, Stacy EOP/WH (b) (6); Srivastava, Nina C. EOP/WHO (b) (6)
Subject: RE: OPM Approvals

Confirming that you guys got my corrected information for Susan Hennessey to send to OPM.

Name: Susan Hennessey
Position: Senior Counsel
Office: National Security Division
Appointment Type: Schedule C
Salary: \$163,345
Start Date: Start date is [5/10/2021](#)

Thanks,
Shomari

From: Figures, Shomari C. (ODAG)
Sent: Wednesday, May 5, 2021 3:21 PM
To: Oglesby, Mark J. EOP/WHO (b) (6)
Cc: Eichner, Stacy EOP/WH (b) (6); Srivastava, Nina C. EOP/WHO (b) (6)
Subject: Re: OPM Approvals

Sorry! Correct Susan below!

Name: Susan Hennessey
Position: Senior Counsel

Office: National Security Division
Appointment Type: Schedule C
Salary: \$163,345
Start Date: Start date is [5/10/2021](#)

Sent from my iPhone

On May 5, 2021, at 3:10 PM, Oglesby, Mark J. EOP/WH (b) (6) > wrote:

?

Susan was already sent up but we'll send up Varudhini tonight

From: Figures, Shomari C. (ODAG) (b) (6)
Sent: Wednesday, May 5, 2021 3:00 PM
To: Eichner, Stacy EOP/WHO (b) (6); Oglesby, Mark J. EOP/WHO (b) (6); Srivastava, Nina C. EOP/WH (b) (6)
Subject: OPM Approvals

Team,

Can you please send the below candidates to OPM today?

Name: Susa (b) (6)
Position: Senior Counsel
Office: National Security Division
Appointment Type: Schedule C
Salary: \$163,345
Start Date: Start date is 5/10/2021

Name: Varudhini Chilakamarri
Position: Deputy Assistant Attorney General
Office: Office of the Deputy Attorney General
Appointment Type: NC-SES
Salary: \$178,835
Start Date: Start date is 5/10/2021

Thanks,
Shomari

Susan Hennessey

From: Susan Hennessey
Sent: Thursday, May 6, 2021 4:36 PM
To: Figures, Shomari C. (ODAG)
Subject: Re: HR Contact

Shomari,

I've received and completed the onboarding forms from HR. I also got an email saying my onboarding will be virtual on Monday. My understanding is that the NSD front office has been working out of the building and I'd imagine there will be a need for classified briefings. Should I plan to work remotely all day Monday or should I report to the building at some point on Monday or later in the week (b) (6).)

Susan

On Wed, May 5, 2021 at 8:53 PM Figures, Shomari C. (ODAG) (b) (6) wrote:

Hi, Susan! HR will be in touch no later than tomorrow. The onboarding will be virtual and they will overnight you equipment most likely. Let me know if you do not hear from anyone by tomorrow.

Shomari

From: Susan Hennessey (b) (6)
Sent: Wednesday, May 5, 2021 11:51 AM
To: Figures, Shomari C. (ODAG) (b) (6)
Subject: HR Contact

Hi Shomari,

I just wanted to check in and make sure everything is on track for a May 10 start date? I haven't heard from HR at all about onboarding or things like insurance paperwork, etc. Is there someone I should reach out to and confirm? I'm not sure where I'm even supposed to report on day one.

Thanks,

Susan

Exhibit 6



U.S. Department of Justice
Office of Information Policy
Sixth Floor
441 G Street, NW
Washington, DC 20530-0001

Telephone: (202) 514-3642

May 27, 2022

Jason Foster
Empower Oversight
2615 Columbia Pike
#445
Arlington, VA 22204
jf@empowr.us

Re: FOIA-2022-01097
22-cv-00190 (EDVA)
VRB:SJD

Dear Jason Foster:

While processing your Freedom of Information Act (FOIA) request dated July 12, 2021, in which you requested records concerning the hiring of Susan Hennessey of the National Security Division (NSD), NSD referred forty-seven pages to this Office. The NSD tracking number for this request is NSD 21-191. For your information, this material was received by this Office on April 18, 2022.

I have determined that nine pages containing records responsive to your request are appropriate for release with withholdings made pursuant to Exemptions 5 and 6 of the FOIA, 5 U.S.C. § 552(b)(5) and (b)(6). Additionally, I have determined that one page should be withheld in full pursuant to Exemption 6. Please note that certain withholdings were made on behalf of NSD. Exemption 5 pertains to certain inter- and intra-agency communications protected by civil discovery privileges. Exemption 6 pertains to information the release of which would constitute a clearly unwarranted invasion of personal privacy. Please be advised that we have considered the foreseeable harm standard when reviewing records and applying FOIA exemptions. Additionally, upon review of the material referred by NSD, I have determined that fifteen pages are not responsive to your request. Furthermore, I have also determined that twenty-two pages referred to this Office by NSD consist entirely of duplicative material and, as such, these duplicative pages have not been processed.

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) (2018). 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.

If you have any questions regarding this response, please contact Lauren Wetzler of the United States Attorney's Office for the Eastern District of Virginia at 703-299-3700.

Sincerely,

A handwritten signature in blue ink, appearing to read 'V-R-B' followed by a horizontal line.

Vanessa R. Brinkmann
Senior Counsel

Enclosures

RE: NEW: Jordan, Biggs, Johnson Send Letter to AG Garland on Appointment of Susan Hennessey to NSD

From: "Greenfeld, Helaine A. (OLA)" (b) (6)
To: "Hennessey, Susan (NSD)" (b) (6)
Date: Thu, 03 Jun 2021 15:11:03 0400

(b) (5)

From: Hennessey, Susan (NSD) <(b) (6)>
Sent: Thursday, June 3, 2021 3:04
To: Greenfeld, Helaine A. (OLA) <(b) (6)>
Subject: RE: NEW: Jordan, Biggs, Johnson Send Letter to AG Garland on Appointment of Susan Hennessey to NSD

Thanks Helaine. I'll forward you the quick notes (b) (5)

From: Greenfeld, Helaine A. (OLA) (b) (6)
Sent: Thursday, June 3, 2021 2:02 PM
To: Hennessey, Susan (NSD) <(b) (6)>
Subject: FW: NEW: Jordan, Biggs, Johnson Send Letter to AG Garland on Appointment of Susan Hennessey to NSD

FYI

From: Pings, Anne (OLA) (b) (6)
Sent: Thursday, June 3, 2021 1:56 PM
To: Greenfeld, Helaine A. (OLA) (b) (6); Gaeta, Joseph (OLA) (b) (6)
Subject: Fwd: NEW: Jordan, Biggs, Johnson Send Letter to AG Garland on Appointment of Susan Hennessey to NSD

In case you are not on Jordan's email distribution list, here is the press outreach on the letter

Begin forwarded message:

From: Addie Perkins <judiciarypress@jdrep.housecommunications.gov>
Date: June 3, 2021 at 12:37:27 PM EDT
To: "Pings, Anne (OLA)" (b) (6)
Subject: NEW: Jordan, Biggs, Johnson Send Letter to AG Garland on Appointment of Susan Hennessey to NSD
Reply-To: Addie Perkins <judiciarypress@jdrep.housecommunications.gov>

Good afternoon,

Ranking Member Jim Jordan (R-OH), Rep. Andy Biggs (R-AZ) and Rep. Mike Johnson (R-LA) just sent a [letter](#) to Attorney General Garland demanding answers on Susan

Hennessey's appointment to the Justice Department's National Security Division (NSD). Ms. Hennessey's appointment raises serious concerns given her partisan nature and inability to "demonstrate objectivity, impartiality, and fairness in all national security matters."

Excerpts from the letter:

"In several recent Justice Department investigations involving national security matters, Ms. Hennessey has been an outspoken and partisan critic of Republicans. For example, Ms. Hennessey extensively commented about the Federal Bureau of Investigation's (FBI) investigation into baseless allegations that the Trump campaign colluded with Russia, during which she relentlessly 'hyp[ed] Russian collusion allegations.' She vouched that Christopher Steele, author of the so-called dossier filled with political opposition research and Russian disinformation, was a 'person whose work intelligence professionals take seriously.'"

"Ms. Hennessey was also a vocal critic of U.S. Attorney John Durham's investigation into the targeting of the Trump campaign and transition team, even calling the investigation 'partisan silliness.' Because this investigation is ongoing and in her new role, Ms. Hennessey may exert supervisory functions over this investigation, her previous statement seriously undercuts any perception of her impartiality."

"Ms. Hennessey also spoke critically about former National Security Advisor Lieutenant General (LTG) Michael T. Flynn's phone call with Russian Ambassador Sergey Kislyak, saying the conversation 'posed a countervailing set of extraordinary circumstances.' In reality, Justice Department officials did not find the conversation troubling, and in fact considered it to be 'pretty common.' However, the FBI used the conversation—which the Obama-Biden Administration leaked to a Washington Post columnist—as a pretext to set up LTG Flynn."

In addition to her controversial comments about high-profile NSD matters, Ms. Hennessey deleted tens of thousands of statements on her Twitter account prior to announcing her new position. From the timing and volume of deletions, we can only conclude that Ms. Hennessey took such drastic steps to erase her past controversial statements about national security matters and hide her political bias."

"The Obama-Biden Justice Department weaponized the NSD and our intelligence community to target the Trump campaign. Ms. Hennessey played a large role in promoting and legitimizing these attacks. Your decision to hire Ms. Hennessey to a senior position within the NSD suggests that rather than execute the law impartially and without

fear or favor, you intend to continue the Obama-Biden Administration's politicization and weaponization of our national security laws. Accordingly, we respectfully write to request that you provide the following information:

1. Explain Ms. Hennessey's role and responsibilities within the Justice Department's NSD;
2. Explain whether Ms. Hennessey was hired as a Schedule C political appointee of the excepted service or under another federal employment category;
3. Explain whether the Justice Department or any component of the Biden-Harris Administration requested, directed, or suggested that Ms. Hennessey delete her tweets."

Read the letter [here](#).

Please let me know if you have any [questions](#).

Best,

Addie Perkins
House Judiciary Committee
Rep Jim Jordan, Ranking Member

This email was sent to (b) (6)

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House Judiciary Committee Republicans · 1504 Longworth House Office Building · Washington, DC 20515-0001 · USA

United States Senate
WASHINGTON, DC 20510

June 29, 2021

VIA ELECTRONIC TRANSMISSION

The Honorable Merrick Garland
Attorney General
Department of Justice

Dear Attorney General Garland:

As you are aware, we are examining potential conflicts of interest relating to recent hires at the Department of Justice (DOJ). As part of that review, on February 3, 2021, and March 9, 2021, we wrote to you about the hiring of Nicholas McQuaid as Acting Assistant Attorney General for the Criminal Division. In both letters we raised concerns about potential conflicts of interest in light of the fact that McQuaid was employed at Latham & Watkins until January 20, 2021, and worked with Christopher Clark, who Hunter Biden reportedly hired to work on his federal criminal case.¹ You have failed to fully respond to those letters, including producing McQuaid's recusal memo, should one exist.

Recently, DOJ hired Susan Hennessey to work in its National Security Division (NSD).² We have concerns about her role and potential impact on ongoing matters, including Special Counsel John Durham's inquiry (Durham inquiry). On December 1, 2020, Ms. Hennessey expressed a clear partisan bias against the Special Counsel's investigation:

Durham has made abundantly clear that in a year and a half, he hasn't come up with anything. I guess this kind of partisan silliness has become characteristic of Barr's legacy, but unclear to me why Durham would want to go along with it.³

Ms. Hennessey presumably made this statement without any first-hand knowledge of Durham's ongoing work, including its true scope and the extent of the evidence acquired at that time. Ms. Hennessey's apparent bias against Durham's inquiry presents a clear conflict that makes it

¹ Daniel Chaitin and Jerry Dunleavy, *Tucker Carlson reports DOJ hired ex-business partner of Hunter Biden criminal defense attorney*, Washington Examiner (Jan. 29, 2021), <https://www.washingtonexaminer.com/news/tucker-carlson-justice-department-hunter-biden-attorney-partner>.

² Harper Neidig, *CNN legal analyst joins DOJ's national security division*, The Hill, (May 10, 2021), <https://thehill.com/policy/national-security/552649-cnn-legal-analyst-joins-doj-s-national-security-division>.

³ Chuck Ross, *DOJ's Top National Security Lawyer Slammed Investigation Into Government Wrongdoing in Surveillance of Trump Aide*, WASHINGTON FREE BEACON (May 10, 2021), <https://freebeacon.com/biden-administration/dojs-top-national-security-lawyer-slammed-investigation-into-government-wrongdoing-in-surveillance-of-trump-aide/>.

impossible for her to be objective and credible with respect to any elements relating to the Durham inquiry, should she have access to any of it.

Ms. Hennessey also expressed copious public views in support of the fundamentally flawed Crossfire Hurricane investigation and vouched for the Steele Dossier which, as our joint investigation unveiled, was infected with Russian government disinformation and demonstrably false information.⁴ Ms. Hennessey stated that Steele was “a person whose work intelligence professionals take seriously.”⁵ Ms. Hennessey also publicly said that the 2018 memo from then-House Intelligence Chairman Devin Nunes exposing Crossfire Hurricane’s fundamental flaws would need to be “debunk[ed]” *before* she had opportunity to read the memo.⁶

With respect to the Justice Department Inspector General’s (IG) report on Crossfire Hurricane, she attacked the IG’s credibility before the report was even completed in an effort to discredit it:

This is extremely irregular. There are growing signs that there are serious problems with the IG report and questions as to whether this is designed to be an honest accounting of the views of the IG or a political document driven by Barr’s conspiracy theories.⁷

The IG found “at least” 17 significant errors and omissions in the Carter Page FISA applications and additional Woods Procedure errors. The IG report stated,

[t]hat so many basic and fundamental errors were made on four FISA applications by three separate, hand-picked teams, on one of the most sensitive FBI investigations that was briefed to the highest levels within the FBI and that FBI officials expected would eventually be subjected to close scrutiny, raised significant questions regarding the FBI chain of command’s management and supervision of the FISA process.

Ms. Hennessey’s reaction to the IG report was, “I don’t think the IG findings are significant enough to justify the work of a podcast.”⁸

⁴ Press Release, Senator Charles E. Grassley, IG Footnotes: Serious Problems with Dossier Sources Didn’t Stop FBI’s Page Surveillance (Apr. 15, 2020), <https://www.grassley.senate.gov/news/news-releases/ig-footnotes-serious-problems-dossier-sources-didn-t-stop-fbi-s-page-surveillance>.

⁵ Kimberley Strassel, *The Justice Department’s Resident Conspiracy Theorist*, THE WALL STREET JOURNAL (May 13, 2021), <https://www.wsj.com/articles/the-justice-departments-resident-conspiracist-11620944310>.

⁶ Quinta Jurecic, *Devin Nunes’s Mystery Memo: Repeating the Cycle of Distraction*, LAWFARE (Jan. 20, 2018), <https://www.lawfareblog.com/devin-nunes-mystery-memo-repeating-cycle-distraction>.

⁷ Ashe Schow, *As Expected, Media Move to Discredit IG Report Regarding Origins of the Russian Collusion Narrative*, The Daily Wire (Nov. 16, 2019) <https://www.dailywire.com/news/as-expected-media-move-to-discredit-ig-report-regarding-origins-of-the-russian-collusion-narrative>.

⁸ Jordan Davidson, *Biden’s DOJ Hired Full-On Russia Collusion Hoaxer Susan Hennessey To Its National Security Division*, THE FEDERALIST (May 10, 2021), <https://thefederalist.com/2021/05/10/bidens-doj-hired-full-on-russia-collusion-hoaxer-susan-hennessey-to-its-national-security-division/>; see also Tobias Hoonhout & Isaac Schorr, *DOJ Pick Susan Hennessey’s Long, Sordid History of Partisan Conspiracy-Mongering*, NATIONAL REVIEW (May 10, 2021), <https://www.nationalreview.com/news/doj-pick-susan-hennesseys-long-sordid-history-of-partisan-conspiracy-mongering/>.

As a general matter, all government employees must avoid situations that create even the appearance of impropriety and impartiality so as to not affect the public perception of the integrity of an investigation.⁹ Ms. Hennessey's partisan comments show a clear political bias that undercuts her ability to impartially work on some matters within the NSD's purview, including the Durham inquiry. At your February 22, 2021, nomination hearing, you stated that you are "very much committed to transparency and to explaining Justice Department decision-making."¹⁰ Accordingly, please answer the following no later than July 13, 2021:

1. Does Ms. Hennessey have any role in the Durham inquiry? If so, please describe that role.
2. Does Ms. Hennessey have authorization to access any aspect of the Durham inquiry, including records? If so, has she used that authorization? If so, for what?
3. Has Ms. Hennessey been recused from all matters relating to the Durham inquiry? If not, why not? If so, please provide all records relating to her recusal obligations, including a recusal memo.
4. Please describe the extent to which DOJ officials were aware of Ms. Hennessey's previous partisan statements when considering hiring her to work at DOJ.
5. What is the status of the Durham inquiry? When will it be completed?
6. Former Attorney General Barr's October 19, 2020, memo, cited 28 C.F.R. § 600.8, which requires Durham to submit interim reports and a final report to you. Barr's memo also directed Durham to submit the reports "to the maximum extent possible...in a form that will permit public dissemination."¹¹
 - a. Do you agree with former Attorney General Barr that interim reports and a final report should be drafted "to the maximum extent possible...in a form that will permit public dissemination"? If not, why not? If so, what steps have you taken to ensure that they will be produced in that manner?

⁹ Specifically, 5 C.F.R. § 2635.502, advises that a government employee should seek clearance before participating in any matter that could cause his or her impartiality to be questioned. Executive Order 12674, "Principles of Ethical Conduct for Government Officers and Employees," makes clear that "[e]mployees shall not hold financial interests that conflict with the conscientious performance of duty," "[e]mployees shall act impartially and not give preferential treatment to any private organization or individual," and "[e]mployees shall endeavor to avoid any actions creating the *appearance* that they are violating the law or the ethical standards set forth in this part." Emphasis added.

¹⁰ At your nomination hearing on February 22, 2021, Senator Grassley asked you, "If confirmed, would you commit to publicly releasing Special Counsel Durham's report, just like [the] Mueller report was made public?" You responded, "So, Senator, I am a great believer in transparency. I would, though, have to talk with Mr. Durham and understand the nature of what he has been doing and the nature of the report. But I am a big – very much committed to transparency and to explaining Justice Department decision-making." Hearing Transcript at 38. <https://www.judiciary.senate.gov/meetings/the-nomination-of-the-honorable-merrick-brian-garland-to-be-attorney-general-of-the-united-states-day-1>.

¹¹ Charlie Savage, *Barr Makes Durham a Special Counsel in a Bid to Entrench Scrutiny of the Russia Inquiry*, The New York Times (Dec. 1, 2020), <https://www.nytimes.com/2020/12/01/us/politics/john-durham-special-counsel-russia-investigation.html>. See also, <https://www.politico.com/f/?id=00000176-2008-d692-a977-3c7afcd50000> (copy of then-Attorney General Barr's order appointing Durham as a special counsel.).

- b. Will Ms. Hennessey have access to any of Durham's draft and final reports?
- c. Please provide a list of all DOJ employees who will be able to review draft and final versions of the Durham report.

Thank you for your attention to this matter.

Sincerely,



Charles E. Grassley
Ranking Member
Committee on the Judiciary



Ron Johnson
Ranking Member
Permanent Subcommittee
on Investigations

RE: Grassley letter re Hennessey

From: "Findlay, Patrick (NSD)" (b) (6)
To: "Hennessey, Susan (NSD)" (b) (6)
Date: Tue, 29 Jun 2021 14:51:02 -0400

(b) (5)

From: Hennessey, Susan (NSD) (b) (6)
Sent: Tuesday, June 29, 2021 2:04 PM
To: Findlay, Patrick (NSD) (b) (6)
Subject: FW: Grassley letter re Hennessey

From: Greenfeld, Helaine A. (OLA) (b) (6)
Sent: Tuesday, June 29, 2021 1:37 PM

Duplicative

RE: Grassley letter re Hennessey

From: "Greenfeld, Helaine A. (OLA)" (b) (6)
To: "Hennessey, Susan (NSD)" (b) (6)
Date: Tue, 29 Jun 2021 18:13:11 -0400

Great (b) (5) ? (b) (5)

From: Hennessey, Susan (NSD) (b) (6)
Sent: Tuesday, June 29, 2021 6:06 PM
To: Greenfeld, Helaine A. (OLA) (b) (6)
Subject: RE: Grassley letter re Hennessey

Here is the language Patrick and I worked up re (b) (5)

(b) (5)

From: Greenfeld, Helaine A. (OLA) (b) (6)
Sent: Tuesday, June 29, 2021 1:47 PM
To: Hennessey, Susan (NSD) (b) (6)
Subject: RE: Grassley letter re Hennessey

Come around 4 if you can?

From: Hennessey, Susan (NSD) (b) (6) >
Sent: Tuesday, June 29, 2021 1:47 PM
To: Greenfeld, Helaine A. (OLA) (b) (6)
Subject: RE: Grassley letter re Hennessey

Sure. When are you free? I can pop down to your office if that's easiest.

(b) (5)

From: Greenfeld, Helaine A. (OLA) (b) (6)
Sent: Tuesday, June 29, 2021 1:37 PM
To: Hennessey, Susan (NSD) (b) (6)
Subject: FW: Grassley letter re Hennessey

I'm sorry to be the bearer of bad news, but this has come in. Shall we make a time to talk later?

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Tuesday, June 29, 2021
Greenfeld, Helaine A. (OLA) (b) (6) D (PAO)
(b) (6) Johnson, Joanne E. (OLA)
(b) (6) ; Calce, Christina M (b) (6)
(b) (6) Loeb, Emily M (ODAG)
(b) (6) Goodlander, Margaret V. (OAG) (b) (6)
Hennessey

Flagging as there may be media interest

Joe Gaeta
Deputy Assistant Attorney General
Office of Legislative Affairs (OLA)
U.S. Department of Justice

Exhibit 7



U.S. Department of Justice

National Security Division

Washington, D.C. 20530

Mr. Jason Foster
EMPOWER OVERSIGHT
601 King Street, Suite 200
Alexandria, VA 22314
Via email: jf@empowr.us

NSD FOIA # 21-191
22-cv-00190 (PTG)

July 11, 2022

Dear Mr. Foster:

This is the National Security Division's final response to your July 21, 2021 Freedom of Information Act (FOIA) request seeking the below mentioned records. We assigned your request NSD # 21-191. This release responds to Item 7 of your request.

1. *the Justice Department's consideration and hiring of Ms. Hennessey, including all records related to her interest in joining the Department, consideration of her for any Department position, any statements of recommendation, evaluations of her qualifications, records relating to interviews with Ms. Hennessey, notes from any such interviews, and any offers of employment;*
2. *all forms completed by Ms. Hennessey in the application, hiring, and onboarding processes at Department of Justice;*
3. *all conflicts Ms. Hennessey reported or the Department assessed to apply to her;*
4. *all recusals applicable to Ms. Hennessey, including all records relating to any recusal or draft recusal of Ms. Hennessey from matters related to Special Counsel Durham's inquiry;*
5. *all records relating to Ms. Hennessey's deleted tweets;*
6. *all records to or from the relevant Justice Department Ethics Officials, including Michael Nannes or Cynthia Shaw, regarding Ms. Hennessey;*
7. *Ms. Hennessey's calendar entries from the first day of her employment at the Department to the present;*
8. *all records sent or received by Ms. Hennessey that include the terms "Durham," "Special Counsel," "Steele," "dossier," "Clinesmith," or "Danchenko";*
9. *all records relating to Ms. Hennessey's previous employer, Lawfare, and leaks regarding Special Counsel Mueller's investigation.*

We are withholding portions of this record pursuant to the following FOIA exemptions set forth in 5 U.S.C. 552(b):

(3) which permits the withholding of information specifically exempted from disclosure by statute (the applicable statute is USC §3024(i)(1));

(5) which permits the withholding of inter-agency or intra-agency memorandums or letters which reflect the predecisional, deliberative processes of the Department;

(6) which permits the withholding of personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and

(7) which permits the withholding of records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information...

(C) could reasonably be expected to constitute an unwarranted invasion of personal privacy;

(D) could reasonably be expected to disclose the identity of a 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 a record or information compiled by 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; and,

(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.

Please be advised that we considered the foreseeable harm standard when applying FOIA exemptions.

As this request is the subject of litigation, we are omitting our standard appeal section. Please direct any communications to Assistant United States Attorney Lauren Wetzler of the Eastern District of Virginia at lauren.wetzler@usdoj.gov.

Sincerely,



Kevin G. Tiernan,
Records and FOIA

Enclosure