IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CAMPAIGN LEGAL CENTER, Plaintiff, v. UNITED STATES DEPARTMENT OF JUSTICE, Defendant.	Civil Action No. 18-1771 (TSC) Oral Argument Requested

PLAINTIFF'S REPLY IN SUPPORT OF ITS RENEWED CROSS-MOTION FOR SUMMARY JUDGMENT

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Dated December 20, 2021

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Plaintiff Campaign Legal Center ("CLC") submits this Reply in support of its Renewed Cross-Motion for Summary Judgment (ECF Nos. 51-52, "Renewed Motion"), filed November 2, 2021. Defendant Department of Justice ("DOJ" or the "Department") filed its Opposition (ECF Nos. 54-55, "Opposition") on December 2, 2021.

INTRODUCTION

This Court is presented with one simple question: may the Government use the deliberative process privilege to shield from public scrutiny information related to its attempt to concoct and promote a false justification for a predetermined and politically motivated decision. As a matter of law and logic, it cannot.

All of the withheld material postdates the agency decision at issue in this litigation: DOJ's determination to request a citizenship question be added to the 2020 Census. *See* Opp. at 7 ("That decision had already been made."). While DOJ's Opposition tries to characterize the undisclosed information as distinct decision-making processes unrelated to the addition of the citizenship question, it fails to carry its burden of demonstrating that the withholdings constitute anything more than explanations of its already-made decision or the artificial justification behind the decision. Such material is neither pre-decisional nor deliberative and is therefore not protected under Exemption 5's deliberative process privilege. *See Reps. Comm. for Freedom of the Press v. FBI*, 3 F.4th 350, 367 (D.C. Cir. 2021).

Nor has the Department made an adequate showing of harm with regard to each of the withheld categories of information; the Fourth Declaration of Vanessa R. Brinkmann ("Fourth Decl.") is largely a rehashing of the boilerplate language contained in previous declarations, and still rests on generalized assertions of a chilling effect on agency communications if the withheld material is released. Any allegations of foreseeable harm are particularly strained here, given that

the relevant material relate to an agency effort to mislead the public and other branches of government regarding the history of and basis for the request to add a citizenship question to the census. *See Tax Reform Rsch. Grp. v. IRS*, 419 F. Supp. 415, 426 (D.D.C. 1976) (documents that "cannot be construed as being part of any proper governmental process" should not be shielded under Exemption 5).

The Freedom of Information Act's ("FOIA" or the "Act") overarching purpose is to prevent undue administrative secrecy and ensure agency action is subject to public scrutiny. *See Citizens for Responsibility & Ethics in Wash. ("C.R.E.W.") v. United States Dep't of Just.*, 746 F.3d 1082, 1088 (D.C. Cir. 2014). DOJ seeks to turn FOIA on its head by asking this Court to turn one of the Act's narrow exemptions into an avenue through which the Department can shield from view the very kind of information FOIA was enacted to expose. Accordingly, the Court should grant judgment in favor of CLC, and order DOJ to produce all remaining withheld materials.

ARGUMENT

I. DOJ HAS FAILED TO DEMONSTRATE THAT IT IS ENTITLED TO WITHHOLD THE REMAINING MATERIAL

DOJ continues to withhold from production six categories of material identified on their Vaughn Index as follows: (i) Email Correspondence with the White House; (ii) Draft USCCR Interrogatory Responses; (iii) Deliberative Discussions Regarding the Drafting Process; (iv) Draft Correspondence with Representative Gonzalez; (v) Draft Correspondence Between JMD and Department of Commerce; and (vi) Deliberative Discussions Regarding the Census and/or ACS.

However, the Department has failed to meet its burden in showing that the first four categories of material fall within the narrow bounds of the deliberative process privilege, *see Coastal States Gas Corp. v. Department of Energy*, 617 F.2d 854, 868 (D.C. Cir. 1980) (holding that Exemption 5 is to be applied "as narrowly as consistent with efficient Government operation"),

and has similarly failed to demonstrate that the release of any undisclosed information would meet the rigorous foreseeable harm standard imposed under FOIA. *See Reps. Comm.*, 3 F.4th at 369 ("In that way, the foreseeable harm requirement imposes an independent and meaningful burden on agencies.") (citation omitted); *Jud. Watch, Inc. v. U.S. Dep't of Com.*, 375 F. Supp. 3d 93, 99-100 (D.D.C. 2019) (explaining that the addition of the foreseeable harm requirement created a "a heightened standard for an agency's withholdings under Exemption 5"). Accordingly, all categories of withheld material must be released.

A. Email Correspondence with the White House

1. *The DOJ-White House Correspondence is Neither Pre-Decisional Nor Deliberative*

DOJ has failed to demonstrate that the December 19, 2017 email thread between Commerce, DOJ, and White House staff is anything more than a communication explaining already-decided policy, which is not protected under the deliberative process privilege. *Nat'l Day Laborer Org. Network v. U.S. Immigr. & Customs Enf't Agency*, 811 F. Supp. 2d 713, 741 (S.D.N.Y. 2011) ("It is not privileged if it reflects the personal opinions of a writer with respect to how to explain an *existing* agency policy or decision.") (emphasis in original) (citation omitted)). By the Department's own admission, this communication served the sole purpose of seeking advisement on "how and when Congress should be notified about Defendant's request to the Census Bureau." *See* Opp. at 4. Discussions regarding how and when already determined decisions should be communicated simply do not fall within the narrow confines of Exemption 5. *See Reps. Comm.*, 3 F.4th at 362 (documents explaining existing agency policy and containing purely factual information are not shielded by the deliberative process privilege); Mem. Op. at 15 (rejecting contention that letter drafts were predecisional where "[t]hey were not used to help the agency make a decision, but rather were used to communicate the decision"). Such documents do

not help the agency "arriv[e] at [its] decision," *see Petroleum Information Corp. v. U.S. Department of Interior*, 976 F.2d 1429, 1433 (D.C. Cir. 1992), or assist the agency to "formulate its position," *see Reps. Comm.*, 3 F.4th at 362, and are therefore neither predecisional nor deliberative.

In its Opposition, DOJ argues that even informal policymaking can be subject to the deliberative process privilege. *See* Opp. at 4-5. CLC does not dispute this general observation. However, DOJ has failed to demonstrate that the communications at issue here rise even to the level of informal policymaking; by the Department's own description, the December 19, 2017 email thread discussed only the manner and method by which Congress would be informed of DOJ's decision to request that a citizenship question be added to the 2020 Census. To argue that such communications are actually policymaking would turn almost every agency decision into something protected by the deliberative process privilege, which would be contrary to FOIA's "strong policy in favor of disclosure." *See* Mem. Op. at 15 (quoting *Petroleum Info. Corp.*, 976 F.2d at 1434).

Because DOJ has failed to carry its burden in establishing that the withheld information is both predecisional and deliberative, CLC is entitled to summary judgment as to the DOJ-White House Correspondence.

2. *DOJ Has Not Demonstrated That Releasing the DOJ-White House Correspondence Will Result in Foreseeable Harm.*

As stated in greater detail in CLC's Renewed Motion, the Third Declaration of Vanessa R. Brinkmann ("Third Decl.") contained nothing more than boilerplate allegations of potential harm that did not rise to the standard articulated by the D.C. Circuit of "a focused and concrete demonstration of why disclosure of the particular type of material at issue will, in the specific

context of the agency action at issue, actually impede those same agency deliberations going forward." *Reps. Comm.*, 3 F.4th at 370. The Fourth Declaration suffers from the same deficiency.

In large part, the Fourth Declaration asserts the same potential harms as the Third Declaration, including "inhibit[ing] the Executive Branch's ability to engage in effective communications decision-making" and "impair[ing] the ability to foster and engage in the forthright intra-Executive Branch discussions." *See* Fourth Decl. at 15. To the extent the Fourth Declaration expounds upon its claims of potential harm, it simply reiterates that the release of such information could have a chilling effect on inter- and intra-agency discussions. *See id.* ¶ 17 ("[A]ny further release of the specific information withheld in these records would harm the Executive Branch's ability to have robust internal deliberations regarding communications with the Legislative Branch as Executive Branch officials would temper their internal discussions out of concern for damaging their relationship with another branch of the government."). But assertions of a chilling effect on discourse does not meet the foreseeable harm standard set forth under FOIA. *See, e.g.*, *Reps. Comm.*, 3 F.4th at 370 (rejecting as foreseeable harm "a series of boilerplate and generic assertions that release of any deliberative material would necessarily chill internal discussions"); *Savage v. Dep't of the Navy*, No. 19-2983 (ABJ), 2021 WL 4078669, at *5 (D.D.C. Sept. 8, 2021) (same).

The Fourth Declaration alleges additional harm because at the time these communications occurred, "the upcoming census was subject to ongoing intense public and congressional scrutiny, as well as legal challenges." Fourth Decl., ¶16. CLC does not dispute that DOJ's decision to accede to Commerce's request and promote a contrived justification for that request resulted in a national discussion regarding the 2020 Census. However, the Fourth Declaration fails to explain how the release of this material nearly four years later—and after the Census has occurred—will

result in such harm that will outweigh the public interest in disclosure. *See C.R.E.W*, 746 F.3d at 1090.

Accordingly, even if this Court were to determine that the DOJ-White House Correspondence was protected under the deliberative process privilege, the material should still be released because DOJ has failed to demonstrate that the release of such information will result in foreseeable harm.

B. Draft USCCR Interrogatory Responses

1. *The Draft USCCR Interrogatory Responses are Neither Pre-Decisional Nor Deliberative*

DOJ asserts that because the redacted information in the USCCR Interrogatory Responses are substantive edits and because they concern the VRA and "not the proposed citizenship question" they are part of a wholly separate decision-making process and therefore shielded from disclosure by the deliberative process privilege. Neither contention is correct.

Even if the redacted information at issue is more than mere wordsmithing, that does not mean that it is subject to the privilege because, as federal courts have routinely recognized, drafts are not per se privileged. *See, e.g.*, *U.S. Fish & Wildlife Serv. v. Sierra Club, Inc.*, 141 S. Ct. 777, 786 (2021) ("What matters, then, is not whether a document is last in line, but whether it communicates a policy on which the agency has settled."); *Jud. Watch, Inc. v. U.S. Postal Serv.*, 297 F. Supp. 2d 252, 260 (D.D.C. 2004) ("[D]rafts are not presumptively privileged.") ((citing *Arthur Andersen & Co. v. IRS*, 679 F.2d 254, 257 (D.C. Cir. 1982)). Whether the edits were "substantive" is immaterial—if the edits were made to further communicate a policy already decided, they are not protected under the deliberative process privilege.

Nor is it of any consequence that the redacted material allegedly concerns the VRA and "*not* the proposed citizenship question." *See* Opp. at 6. To distinguish between the two is splitting

hairs—DOJ specifically cited enhanced enforcement of the VRA as its justification for requesting that the Census Bureau add a citizenship question to the 2020 Census. *See* Renewed Motion, Ex. 2 ("This data is critical to the Department's enforcement of Section 2 of the Voting Rights Act and its important protections against racial discrimination in voting."). DOJ's decision to request the citizenship question and its pretextual rationale for doing so go hand-in-hand; they were not part of separate decision-making processes such that one is protected under the deliberative process privilege and the other is not. Moreover, to the extent that the interrogatories were seeking information about the VRA, see Opp. at 6, and the responses contain factual information regarding the VRA, such material is not protected under the privilege. *See Reps. Comm.*, 3 F.4th at 362 (documents containing purely factual information are not shielded under the deliberative process privilege).

DOJ's Opposition fails to demonstrate that the withheld information is both predecisional and deliberative, and therefore CLC is entitled to summary judgment as to the Draft USCCR Interrogatory Responses.

2. *DOJ Has Not Demonstrated That Releasing the Draft USCCR Interrogatory Responses Will Result in Foreseeable Harm*

Similar to the DOJ-White House Correspondence, the Fourth Declaration largely rehashes the asserted boilerplate harm listed in the Third Declaration for the Draft USCCR Interrogatory Responses. *See* Fourth Decl. at 17-18. The Fourth Declaration simply doubles down on its claims of a chilling effect if the information were to be released. *See id.* ¶ 20 ("[O]therwise, the Department's ability to effectively manage its relationship with the Legislative Branch…would be compromised."); ¶ 21 ("Release of the specific information withheld in these records would harm the Department's ability to have robust internal deliberations regarding its relationship with the Legislative Branch because Department officials would temper their discussions…").

For the same reasons cited above in Section I(A)(2), such allegations of a chilling effect on agency speech do not rise to the level of particularized harm needed to overcome the public interest in disclosure. Accordingly, even if the draft interrogatory responses are deemed subject to the deliberative process privilege, DOJ has failed to satisfy the reasonable harm requirement and the information must be released.

C. Discussions of a Proposed Response to the Washington Post

1. *The Discussions of a Proposed Response to the Washington Post are Neither Pre- Decisional Nor Deliberative*

DOJ erroneously claims that because the questions posed by the Washington Post do not "request[] the agency's position on whether it would request that the Census Bureau include a citizenship question on the 2020 Census," the discussion surrounding the agency's answers to the questions are part of an entirely separate deliberative process. Simply because the inquiries, which broadly question the soundness of the agency's decision to request a citizenship question, do not explicitly ask *whether* the Department would request a citizenship question does not somehow transform this discussion into one that occurred in the midst of an "unsettled policy landscape" such that it is comparable to the discussion that the D.C. Circuit found to be protected in *Reporters Committee*. *See Reps. Comm.*, 3 F.4th at 363 (finding emails privileged where they discussed a policy that had "a decidedly uncertain future").

Here, DOJ had settled on a course of action and was engaged in discussions to defend its policy decision. *See* Opp. at 7 ("That decision had already been made."). Such information is not protected by the deliberative process privilege. *See Reps. Comm.*, 3 F.4th at 363 (communications that "discuss, describe, or defend an already-determined agency policy" are not protected under the privilege) (citing *Fish & Wildlife Servs.*, 141 S. Ct. at 786).

The Department's assertion that these questions are "entirely different" than the agency's decision to request the citizenship question is refuted by its own sworn declaration. Indeed, when describing the harm that would result if the withheld material were to be released, the Fourth Declaration points to the national controversy surround the agency's decision to "request that a citizenship question be added to the upcoming census." Fourth Decl., ¶ 9. If the questions are an "entirely different" matter than the decision to request the addition of a citizenship question, why is that the focus of the Department's assessment of foreseeable harm?

Once again, DOJ has failed to carry its burden in demonstrating that the undisclosed information is both predecisional and deliberative. It is not protected by the deliberative process privilege, and CLC is entitled to summary judgment as to the Discussions of a Proposed Response to the Washington Post.

2. *DOJ Has Not Demonstrated That Releasing the Discussions of a Proposed Response to the Washington Post Will Result in Foreseeable Harm*

The Fourth Declaration once again focuses on the potential chilling effect that the release of the information at issue might trigger. *See* Fourth Decl., ¶ 11 ("Release of these specific discussions, in which Department officials propose specific language and make recommended edits to a press inquiry, would chill future Department full and frank internal discussion on matters of national controversy…"). As established in foregoing sections, this assertion is not sufficient to meet FOIA's rigorous "foreseeable harm" requirement.

The Department also asserts a particular harm because it was unable to identify any final statement in response to the Washington Post's inquiries, and therefore release of the information may confuse the public. Such an argument falls flat where, as here, the entire government action was a charade. DOJ had *already* confused the public by asserting that it proposed the addition of a citizenship question to ensure enhanced enforcement of the VRA. As multiple courts have found,

this was not an accurate explanation. *See Dep't of Com. v. New York*, 139 S. Ct. 2551, 2575 (2019) ("The possibility that DOJ's Civil Rights Division might be willing to request citizenship data for VRA enforcement purposes was proposed by Commerce staff along the way[.]"); *Kravitz v. U.S. Dep't of Com.*, 366 F. Supp. 3d 681,706 (D. Md. 2019) ("[T]he Secretary decided in the Spring of 2017, months before receiving DOJ's request, that he wanted to add a citizenship question to the 2020 Census."). It strains credulity that the Department is now somehow concerned that the release of this information will mislead the public.

D. Draft Correspondence to Representative Gonzalez

1. *The Draft Correspondence to Representative Gonzalez is Neither Pre-Decisional Nor Deliberative*

For largely the same reasons described in Section I(C)(1) regarding the proposed responses to the Washington Post inquiry, DOJ has failed to demonstrate that the draft correspondence to Representative Gonzalez is predecisional or deliberative. Much like the questions posed by the Washington Post, the concerns outlined in Representative Gonzalez's January 9, 2018 letter question the soundness of the Department's decision to request that a citizenship question be added to the 2020 Census. Although DOJ attempts to paint these as wholly separate issues from its request for the addition of a citizenship question in its Opposition brief, its accompanying declaration once again cites the controversy surrounding its decision as potential foreseeable harm if this information is released. *See* Fourth Decl., ¶ 23. DOJ cannot simultaneously argue that this material is a completely separate issue from its decision to request the citizenship question, but then cite the controversy surrounding that decision as the foreseeable harm that would result if this material were released.

Communications that seek to discuss and defend an already-decided policy against the kinds of concern and criticism contained in Representative Gonzalez's letter are not protected from

disclosure under the deliberative process privilege. *See Reps. Comm.*, 3 F.4th at 363. Accordingly, CLC is entitled to summary judgment as to the Draft Correspondence to Representative Gonzalez.

2. *DOJ Has Not Demonstrated That Releasing the Draft Correspondence to Representative Gonzalez Will Result in Foreseeable Harm*

As it has for all other categories of withheld material, DOJ's only argument about foreseeable harm resulting from the release of these draft responses is the "chilling effect." *See* Fourth Decl., ¶ 24 ("[R]eleasing these drafts would harm the Executive Branch's ability to have robust internal deliberations on regarding communications with the Legislative Branch…"); *id.* ¶ 25 ("Release of these specific drafts would discourage future discussion of legal and policy issues on matters of national controversy…"). DOJ further notes that these draft documents are substantively different than the final response that was issued to Representative Gonzalez but fails to explain why this is specifically harmful in this instance, other than the allegation that it could temper speech between agency officials. Such allegations of harm are not sufficient. *See Knight First Amend. Inst. at Columbia Univ. v. CDC*, No. 20 Civ. 2761 (AT), 2021 WL 4253299, at *13-14 (S.D.N.Y. Sept. 17, 2021) (agency failed to make an adequate showing of foreseeable harm where the only potential harm alleged was "chilling future free exchange of ideas and opinions by agency leadership on similarly sensitive matters").

The Department also claims that the release of this specific information will be harmful because at the time the communications occurred, the agency's decision to request a citizenship question was the subject of public scrutiny and legal challenges. Once again, CLC does not dispute that DOJ's decision to request the citizenship question was the subject of national discussion. However, if anything, the intense public interest in this issue weighs in favor of disclosure, not withholding. *See In re Sealed Case*, 121 F.3d 729, 738 (D.C. Cir. 1997) (noting that whether material should be disclosed requires a balancing test that considers, among other things, the

importance of the issues at stake in the litigation). Moreover, the Department fails to describe how the release of the withheld material nearly four years later and after the census has passed will cause additional harm.

E. Discussions Regarding the Census and/or ACS and Draft Correspondence Between JMD and Department of Commerce

In its Renewed Motion, CLC conceded that, based on the additional explanation provided by DOJ in its Renewed Motion and accompanying Declarations, the withheld materials described as "Deliberative Discussions Regarding the Census or ACS" and "Draft Correspondence Between JMD and Department of Commerce" appeared to be covered by the deliberative process privilege. *See* Renewed Mot. at 9. However, CLC maintained—and continues to maintain—that such materials still must be released because the Department has failed to show with sufficient specificity that doing so will result in foreseeable harm.

1. *DOJ Has Not Demonstrated That Releasing the Discussions Regarding the Census and/or ACS Will Result in Foreseeable Harm*

DOJ asserts that the release of this material will result in foreseeable harm because these documents were used to "brief[] newly onboarded Department officials" and "summarizes prior Departmental deliberations." *See id*., ¶ 13. Without further explanation, DOJ reasons that disclosing this information will "impair the integrity of the Department's decision-making process" and "inhibit Department officials from freely and fully exchanging information for briefing purposes…" *See id*. But the FOIA's foreseeable harm requirement mandates that the withholding agency "connect[ ] the harms ... to the information withheld, such as by providing context or insight into the specific decision-making processes or deliberations at issue, and how in particular they would be harmed by disclosure." *Judicial Watch, Inc. v. DOJ*, No. 17-0832 (CKK), 2019 WL 4644029, at *5 (D.D.C. Sept. 24, 2019) (citation omitted). Simply noting that the

documents at issue contained information that was used to onboard Department staff and summarize previous DOJ decisions does not demonstrate how release of the specific material at issue would actually cause any harm if released. *See Reps. Comm.*, 3 F.4th at 369 (holding that the foreseeable harm requirement prohibits the withholding of materials unless the agency can "'articulate both the nature of the harm [from release] and the link between the specified harm and specific information contained in the material withheld.'") (quoting H.R. Rep. No. 391, at 9). Accordingly, these documents must be released.

2. *DOJ Has Not Demonstrated That Releasing the Draft Correspondence Between JMD and Department of Commerce Will Result in Foreseeable Harm*

DOJ's assertion of foreseeable harm with regard to the release of the Draft Correspondence Between JMD and Department of Commerce was included in the section of the Fourth Declaration pertaining to the Draft Correspondence to Representative Gonzalez. Accordingly, for the same reasons stated in Section I(D)(2), DOJ has not made an adequate showing that the release of these materials will result in foreseeable harm.

II. DOJ'S CLAIMS OF FORESEEABLE HARM ARE FURTHER STRAINED BY THE FALSE AND PRETEXTUAL NATURE OF THE REQUEST AND ITS RATIONALE

The Department's entire involvement in the addition of the citizenship question was, according to the Supreme Court, "contrived." *See New York*, 139 S. Ct. at 2575. This has been recognized by multiple federal courts, which have all but directly stated that DOJ offered a doctored justification for a predetermined and politically motivated decision that was concocted by another government agency. *See id.*; *Kravitz*, 366 F. Supp. 3d at 752 (the addition of the citizenship question was motivated by "mysterious and potentially improper political considerations."); *State of California v. Ross*, 358 F. Supp. 3d 965, 1013 (N.D. Cal. 2019) (legal

conclusions vacated in light of the holding in *Department of Commerce v. New York* but observing that "Secretary Ross's decision prior to December 12, 2017 to include the citizenship question was unrelated to the enforcement of the VRA").

This is precisely the kind of government secrecy that FOIA was designed to uncover. *See John Doe Agency v. John Doe Corp*., 493 U.S. 146, 152 (1989) (stating that the purpose of FOIA is "ensure an informed citizenry, vital to the functioning of a democratic society, needed to check against corruption and to hold the governors accountable to the governed") (citation omitted). To allow DOJ to shield information related to its efforts to promote a fictitious justification for a policy that the Department wasn't even interested in, *see Kravitz*, 366 F. Supp.3d at 695 ("Justice staff did not want to raise the [citizenship] question…"), would make a mockery of FOIA and the deliberative process privilege, as well as the important interests they serve to protect.

DOJ asserts that CLC bases its argument on the fact that the Supreme Court found "the underlying decision to add a citizenship question to the 2020 Census" to be "arbitrary and capricious." *See* Opp. at 10. This is incorrect. Rather, CLC's argument is based on the Supreme Court's lengthy and detailed explanation of the pretextual nature of the Government's explanations for the decision to request the addition of a citizenship question, all but suggesting that the Government lied. *See New York*, 139 S. Ct. at 2575 ("Altogether, the evidence tells a story that does not match the explanation the Secretary gave for his decision."). Under such circumstances, the Government should not be allowed to claim privilege over the information at issue. *See id.* at 2574 (noting that extra-record discovery is appropriate where, as here, there was a "strong showing of bad faith or improper behavior") (quoting *Citizens to Preserve Overton Park, Inc. v. Volpe*, 401 U.S. 402 (1971)); *Tax Reform Rsch. Grp.*, 419 F. Supp. at 426 (documents that "cannot be

construed as being part of any proper governmental process" should not be shielded under Exemption 5).

CONCLUSION

As demonstrated both in this Reply and CLC's Renewed Motion, DOJ acceded to another agency's repeated requests that it ask the Census Bureau to add a citizenship question to the 2020 Census and offer enhanced enforcement of the VRA as the explanation of its interest. DOJ's entire involvement in the matter—including its post-decision promotion and defense of its proffered rationale—was a farce. Under such circumstances, the Department should not be permitted to continue to withhold information related to its decision.

Plaintiff Campaign Legal Center respectfully requests that the Court deny summary judgment in favor of Defendant Department of Justice, grant summary judgment in favor of CLC, and order DOJ to produce all remaining withheld materials. Alternatively, CLC respectfully requests that the Court review the withheld materials in camera to determine the applicability of Exemption 5.

Dated: December 20, 2021

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on this 20th day of December, 2021, I electronically filed the foregoing document with the Clerk of Court via ECF, which will send electronic notification of such filing to all counsel of record.

/s/ *Nancy Turner*_____
Nancy Turner