

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

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ELECTRONIC PRIVACY INFORMATION		)	
CENTER,		)	
		)	
Plaintiff,		)	Civil No. 1:17-cv-00410
		)	
v.		)	
		)	
UNITED STATES DEPARTMENT		)	
OF JUSTICE,		)	
		)	
Defendant.		)	
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**DECLARATION OF VANESSA R. BRINKMANN**

I, Vanessa R. Brinkmann, declare the following to be true and correct:

1. I am Senior Counsel in the Office of Information Policy (OIP), United States Department of Justice (DOJ or Department). In this capacity, I am responsible for supervising the handling of the Freedom of Information Act (FOIA) requests processed by OIP. The Initial Request (IR) Staff of OIP is responsible for processing FOIA requests seeking records from within OIP and from six senior leadership offices of the Department of Justice, specifically: the Offices of the Attorney General, the Deputy Attorney General, and the Associate Attorney General, and the Offices of Legislative Affairs, Legal Policy, and Public Affairs. The IR Staff determines whether records responsive to access requests exist and, if so, whether they can be released in accordance with the FOIA. In processing such requests, the IR Staff consult with personnel in the senior leadership offices and, when appropriate, with other components within the DOJ and/or other Executive Branch agencies.

2. I make the statements herein based on my personal knowledge, as well as on information that I acquired while performing my official duties.

**Plaintiff's Initial FOIA Request to OIP**

3. By letter dated June 15, 2016, Electronic Privacy Information Center (“EPIC” or “plaintiff”) submitted a FOIA request to DOJ seeking records relating to evidence-based practices in sentencing, including policies, guidelines, source codes, and validation studies. A copy of plaintiff’s FOIA request is attached hereto as Exhibit A.

4. Specifically, plaintiff requested the following records:

- a. All validation studies for risk assessment tools considered for use in sentencing, including but not limited to, COMPAS, LSI-R, and PCRA.
- b. All documents pertaining to inquiries for the need of validation studies or general follow up regarding the predictive success of risk assessment tools.
- c. All documents, including but not limited to, policies, guidelines, and memos pertaining to the use of evidence-based sentencing.
- d. Purchase/sales contracts between risk-assessment tool companies, included but not limited to, LSI-R and the federal government.
- e. Source codes for risk assessment tools used by the federal government in pre-trial, parole, and sentencing, from PCRA, COMPAS, LSI-R, and any other tools used.

5. By letter dated August 9, 2016, OIP acknowledged receipt of plaintiff's FOIA request on behalf of the Offices of the Attorney General (OAG) and Legal Policy (OLP), and provided administrative tracking numbers DOJ-2016-003626 (AG) and DOJ-2016-003627 (OLP). A copy of OIP's acknowledgement letter to plaintiff dated August 9, 2016, is attached hereto as Exhibit B.

6. On March 7, 2017, plaintiff filed suit in connection with the above-referenced FOIA request. *See* ECF No. 1.

**OIP's Responses to Plaintiff's FOIA Request**

7. By letter dated August 16, 2017, OIP provided an interim response to plaintiff's FOIA request. OIP informed plaintiff that searches had been conducted in OAG and OLP pertaining to Parts (4) and (5) of plaintiff's request, and that no responsive records were located as a result of these searches. OIP further informed plaintiff that it was continuing to review and process material that was responsive to Parts (1), (2), and (3) of plaintiff's request and would respond only after consulting with the other entities who had equities in the responsive material. A copy of OIP's interim response, dated August 16, 2017, is attached hereto as Exhibit C.

8. By letter dated October 31, 2017, OIP provided its final response to plaintiff's FOIA request. Pursuant to this response, OIP provided 359 pages of material to plaintiff, some with excisions made pursuant to Exemptions 5 and 6 of the FOIA. Furthermore, OIP withheld 2,367 pages in full pursuant to Exemption 5 of the FOIA. A copy of OIP's final response letter to plaintiff, dated October 31, 2017, is attached hereto as Exhibit D.

### **Adequacy of OIP's Records Searches**

9. As stated in the parties' December 14, 2017 Joint Status Report and Motion to Adopt a Schedule for Further Proceedings, plaintiff is not challenging the adequacy of OIP's records searches. *See* ECF No. 20. As such, OIP's records searches are not addressed herein.

### **Overview of the Predictive Analytics Report**

10. In May 2014, the White House released a report entitled "Big Data: Seizing Opportunities, Preserving Values," ("the Big Data Report")<sup>1</sup> in which senior advisors in the White House were tasked with leading a comprehensive review of the impact that big data technologies are having and will have on a range of economic, social, and government activities. *See* "Big Data: Seizing Opportunities, Preserving Values" at 3, available at:

[https://obamawhitehouse.archives.gov/sites/default/files/docs/big\\_data\\_privacy\\_report\\_may\\_1\\_2014.pdf](https://obamawhitehouse.archives.gov/sites/default/files/docs/big_data_privacy_report_may_1_2014.pdf).

11. Among the many findings and recommendations outlined in the Big Data Report, was the reference to the use of predictive analytics in law enforcement. *See id.* at 66.

12. After the issuance of the Big Data Report, at the direction of the White House, DOJ's Office of Legal Policy (OLP) led a Department review on the use of predictive analytics in law enforcement, and drafted a Predictive Analytics Report, as well as preliminary outlines of those reports, for submission to the White House. This process

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<sup>1</sup> The May 2014 White House report entitled, "Big Data: Seizing Opportunities, Preserving Values," was provided to the plaintiff in OIP's final response, dated October 31, 2017.

entailed both conducting internal research -- including coordination with other Executive Branch stakeholders -- and seeking advice from expert consultants outside of the Department, leading discussions about the progress of the research that had been undertaken, and drafting various iterations of the Predictive Analytics Report that compiled, distilled, presented, and analyzed the research that DOJ conducted.

13. Once the Predictive Analytics Report was finalized, it was submitted to the White House Counsel's Office (WHCO) on November 18, 2014. This report identified potential benefits and challenges in the use of predictive analytics in the law enforcement context, identified tentative next steps, and presented questions for further consideration.

**Explanation of Information Withheld by OIP Pursuant to FOIA Exemption 5**

14. Pursuant to the parties' December 14, 2017 Joint Status Report and Motion to Adopt a Schedule for Further Proceedings, plaintiff stated its intent to challenge OIP's assertion of Exemption 5 of the FOIA, and OIP's determination that no additional, reasonably segregable non-exempt information could be released from the records withheld by OIP. *See* ECF No. 20. OIP withheld a total of 2,363<sup>2</sup> pages in full, and 128 pages in part, pursuant to Exemption 5.<sup>3</sup> The application of FOIA Exemption 5 to these records is discussed in detail below.

15. This declaration is intended to be read in tandem with the corresponding Vaughn Index ("Index") prepared by OIP, filed contemporaneously, and attached hereto as

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<sup>2</sup> OIP's final response to plaintiff reflected a total page count of 2,495 pages. Upon further review of the records in connection with preparing this Index, four pages withheld in full via that response were entirely duplicative and thus have been removed from the final page count.

<sup>3</sup> Certain information within the records responsive to plaintiff's request was also protected pursuant to Exemption 6. However, because plaintiff is not challenging OIP's assertion of Exemption 6 (*see* ECF No. 20), the application of that exemption will not be addressed herein.

Exhibit E. This Index contains descriptions of records withheld in full and records withheld in part. For clarity of presentation and discussion, each fully- or partially-withheld record has been organized into a corresponding category. The designated record categories and applicable FOIA Exemption 5 privilege(s) for each record category are as follows:

Records Withheld in Full (2,363 pages):

- *Draft Predictive Analytics Report and Cover Letters* (1,934 pages): Exemption 5 (Deliberative Process Privilege)
- *Predictive Analytics Report Research* (14 pages): Exemption 5 (Deliberative Process Privilege)
- *Predictive Analytics Report Research—Consultant* (282 pages): Exemption 5 (Deliberative Process Privilege)
- *Draft Speech* (45 pages): Exemption 5 (Deliberative Process Privilege)
- *Briefing Material* (49 pages): Exemption 5 (Deliberative Process Privilege)
- *Presidential Communications Documents* (39 pages): Exemption 5 (Deliberative Process and Presidential Communications Privileges)

Records Withheld in Part (128 pages):

- *E-mails Discussing Predictive Analytics and the Draft Report* (63 pages): Exemption 5 (Deliberative Process Privilege)
- *E-mails Forwarding News Articles, with Commentary, and/or Discussing Drafts of a Speech* (61 pages): Exemption 5 (Deliberative Process Privilege)
- *E-mails Discussing Research for Predictive Analytics Report* (2 pages): Exemption 5 (Deliberative Process Privilege)
- *E-mails with the White House* (2 pages): Exemption 5 (Deliberative Process and Presidential Communications Privileges)

Exemption 5

16. Exemption 5 of the FOIA exempts from mandatory disclosure “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.” 5 U.S.C. § 552(b)(5). As discussed

in detail below, all of the information withheld by OIP pursuant to FOIA Exemption 5 is protected in full or in part pursuant to the deliberative process privilege. Moreover, thirty-nine of these pages are protected in full, and two pages in part, pursuant to the presidential communications privilege (in addition to the deliberative process privilege) of Exemption 5.

Exemption 5: Inter-/Intra-Agency Threshold

17. Inter- and/or intra-agency records may be withheld from release pursuant to Exemption 5 of the FOIA. In some instances, communications between an agency and “outside consultants,” as part of an agency’s decision-making process, may be withheld from disclosure pursuant to the “consultant corollary” of Exemption 5’s threshold requirements. *See, e.g., Dep’t of the Interior v. Klamath Water Users Protective Ass’n*, 532 U.S. 1 (2001); *Nat’l Inst. of Military Justice v. DOD*, 512 F.3d 677 (D.C. Cir. 2008).

18. Here, the majority of the information withheld from plaintiff pursuant to Exemption 5 consists of internal DOJ communications and internal Departmental working drafts, briefing materials, and research relating to its study of predictive analytics in law enforcement, and correlating DOJ communications with White House advisors regarding a matter of presidential concern – i.e., the White House’s solicitation and receipt of a DOJ report presenting the findings of the Department’s policy review on the use of data analytics in law enforcement. All of these records were generated by, exchanged within, and internal to the Executive Branch. As such, they are “inter-/intra-agency” records and satisfy the threshold of Exemption 5 of the FOIA.

19. In addition, the records included in the category “*Predictive Analytics Report Research—Consultant*,” which were withheld pursuant to Exemption 5, consist of

communications, and attachments thereto, sent between outside expert consultants and the Department. The Exemption 5 threshold expands when an agency requests and receives documents or advice from a party external to the government, who then functions as though they are an agency employee for the specific purpose of advising the government. In this case, during the course of conducting the Department's study on the use of predictive analytics, and in connection with drafting the Predictive Analytics Report, OLP staff reached out to academics with expertise and relevant research in the field. These experts were not advocating for a government benefit at the expense of others; rather, they were simply responding to and cooperating with OLP's request for assistance. The records protected in the "*Predictive Analytics Report Research—Consultant*" category consist of e-mails between OLP and these outside academic consultants, who in response to OLP's requests often provided comprehensive details on -- and copies of -- their academic research. OLP then used the information culled from these subject-matter experts in its internal deliberations related to the drafting of the Predictive Analytics Report for eventual submission to the WHCO. Because all of the "*Predictive Analytics Report Research—Consultant*" records were generated by and exchanged between the Department of Justice and these expert consultants, they are, effectively, "inter-/intra-agency" records and satisfy the threshold of Exemption 5 of the FOIA.

20. Inasmuch as all of the records withheld by OIP pursuant to Exemption 5 are either wholly internal to the Executive Branch, or were communications with outside consultants falling within the "consultant corollary" of Exemption 5's threshold requirements, these records are "inter-/intra-agency" records within the threshold of

FOIA Exemption 5.

Exemption 5: Deliberative Process Privilege

21. OIP has protected information within the following record categories pursuant to the deliberative process privilege: *Draft Predictive Analytics Report and Cover Letters; Predictive Analytics Report Research; Predictive Analytics Report Research—Consultant; Draft Speech; Briefing Material; Presidential Communications Documents; E-mails Forwarding News Articles, with Commentary, and/or Discussing Drafts of a Speech; E-mails Discussing Predictive Analytics and the Draft Report; E-mails Discussing Research for Predictive Analytics Report; E-mails with the White House.*

22. The deliberative process privilege is intended to protect the decision-making processes of government agencies from public scrutiny in order to enhance the quality of agency decisions. To be protected by the deliberative process privilege, the information at issue must be both “pre-decisional” and “deliberative.” If pre-decisional, deliberative communications are routinely released to the public, Department employees will be much more cautious in their discussions with each other and in providing all pertinent information and viewpoints to agency or other Executive Branch decision-makers in a timely manner. This lack of candor would seriously impair the Department’s ability to foster the forthright, internal discussions necessary for efficient and proper Executive Branch decision-making.

*Withheld in Full: Drafts*

23. A significant aspect of the decision-making process consists of the creation of draft documents which are then reviewed, edited, and modified before they become final. Over the course of their creation, draft documents are transmitted back and forth,

continually changing as relevant staff make track changes, suggest edits, and contemplate strategies as they work toward a final document. The employees preparing such materials must feel free to create the most thorough and well-vetted document possible, which is only possible with the knowledge that their preliminary, nascent views and working drafts will not be disclosed.

24. Records in OIP's Vaughn Index categorized as "*Draft Predictive Analytics Report and Cover Letters*" are working drafts of the Department's Predictive Analytics Report and cover letters that include multiple revisions made by DOJ/OLP staff. Records categorized as "*Draft Speech*" consist of the draft version of a speech to be given (but as of the date of the draft, not yet given) by former Attorney General Eric Holder.<sup>4</sup>

25. The drafts that were withheld in full are pre-decisional because they precede the finalization and transmission to the White House of the final Predictive Analytics Report and cover letter, and precede the delivered speech delivered by Mr. Holder. These drafts are also deliberative inasmuch as they reflect successive versions of working drafts and as such, show the internal development of the Department's decisions. Disclosure of these drafts would undermine the ability of Department staff to freely engage in the candid "give and take" and forthright collaboration which is critical to the eventual development of well-reasoned and accurate final documents. DOJ deliberations on these working drafts cannot be effectively or reasonably segregated, because it is the content and evolution of the drafts themselves which reveal the authors' deliberative process. Accordingly, they are protected in full pursuant to the deliberative process privilege. To

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<sup>4</sup> The final version of this speech was produced to plaintiff in OIP's final production on October 31, 2017.

the extent that non-exempt, final versions of these drafts were identified, i.e. in the case of the draft speech, they have been provided to plaintiff.<sup>5</sup>

*Withheld in Full: Predictive Analytics Report Research &  
Predictive Analytics Report Research-Consultant*

26. As with draft documents, a significant aspect of the decision-making process consists of research, which is then reviewed, culled, distilled and analyzed prior to consideration of its inclusion in or influence on working drafts and, ultimately final documents. Department employees engaging in the drafting process must feel encouraged to cast a wide net in conducting their own research and exercising judgment in extracting what they deem to be pertinent information out of a mass of available resources. In this instance, OLP staff engaged in such a robust research process, including through the solicitation of advice and source material from outside consultants in the academic field. This process then fed into subsequent OLP staff deliberations and collaboration on the research and source materials in the context of drafting the Predictive Analytics Report for submission to the WHCO. During this key part of the drafting process, Department staff must feel free to consider the many facets of complex issues under their review. This is only possible if Department employees' working research -- including the selection of certain source materials (and by extension, the authors of those materials, i.e. the outside expert consultants) and the emphasis placed on selected materials -- during this deliberative drafting stage is not revealed.

27. Records in OIP's Vaughn Index categorized as "*Predictive Analytics Report Research—Consultant*" consist of communications sent between DOJ and third-party

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<sup>5</sup> The final version of the Predictive Analytics Report, and its cover letter, are independently protected by the presidential communications privilege in full, and the deliberative process privilege in part. These records are addressed in more detail below.

consultants, reflecting advice solicited by OLP from these outside, expert consultants, and related research regarding the work of those consultants, as part of the drafting and research process for the Predictive Analytics Report. A significant part of these communications is the inclusion by these outside consultants of their academic research, which is attached to and discussed in the expert consultants' communications with OLP. Records categorized as "*Predictive Analytics Report Research*" consist of internal OLP e-mails, bullet points, draft version of a source list, and research selected for and presented by and to OLP staff working on the draft Predictive Analytics Report. This internal working research conducted on data analytics in sentencing was prepared in order to inform the decision-making process attendant to the preliminary development of the Predictive Analytics Report for the WHCO.

28. The research materials that were withheld in full are pre-decisional because they precede the finalization of the Predictive Analytics Report, the drafting of which this research directly informed, and the decision as to what source material was relevant to the Report. These materials are also deliberative inasmuch as they reflect the thought processes and judgment of OLP staff as they canvass and cull from a spectrum of available source materials, analyze the material, and distill it down for other OLP staff working on the study and report and as such, show the internal development of the Department's decisions. Disclosure of this working research would undermine the ability of Department staff to freely engage in the candid "give and take" and forthright collaboration which is critical to the eventual development of well-reasoned and accurate final documents.

29. Working research materials such as those included in the “*Predictive Analytics Report Research*” and “*Predictive Analytics Report Research-Consultant*” categories, reflect Department staff’s preliminary thoughts and ideas about what source information is relevant to and/or should be included in the final product of a future work. Department staff tasked with conducting this research do so in order to inform their understanding of the topic, to brief others who are also working on the matter, and ultimately, to draft recommendations and final documents. Department employees rely on this research to ensure that their final work-product and decisions are well-informed, and take into account a variety of relevant sources and viewpoints. Revealing the inner-workings and preliminary thoughts of Department staff as they engage in research meant to facilitate a robust and comprehensive drafting process would prevent Department employees from fully engaging in research that is necessary to complete these critical tasks.

30. The deliberations revealed in these working research materials cannot be effectively segregated because, as explained in detail above, the selection of source material -- including the identification of relevant sources -- in the research process is itself revelatory of the deliberative process. Accordingly, these materials are protected in full pursuant to the deliberative process privilege.

*Withheld in Full: Briefing Material*

31. Another critical aspect of the decision-making process consists of the drafting and preparation of briefing materials created to aid in the development of Department positions and to prepare senior leadership officials to address various legal and policy points that may arise during the course of anticipated meetings, official travel, internal meetings, and engagement with Congress and the media.

32. In the records categorized as “*Briefing Material*” in OIP’s Vaughn Index, Departmental staff prepared materials in order to (1) brief and prepare former Attorney General Holder for an interview with the media; and (2) brief and prepare internal Departmental staff on the background of the White House Predictive Analytics Report. Specifically, these records consist of a briefing or “prep” paper prepared by Department staff to assist in the preparation of former Attorney General Holder for a media interview, and an internal briefing presentation prepared by Departmental employees to aid in briefing OLP staff on the predictive analytics review.

33. The briefing materials withheld by OIP are pre-decisional, inasmuch as they precede the events or actions for which Department leadership is being prepared and/or do not embody or reflect final agency decisions. These briefing materials are also deliberative because they reveal the drafters’ opinions and analyses on important newsworthy topics and focus on how best to convey and respond to questions on these topics from the Department’s perspective. Additionally, these briefing materials are meant to provide an overview of a specific topic and aid Department employees with understanding critical aspects of the predictive analytics policy review tasked to DOJ by the White House. The drafters of these briefing materials attempt to succinctly summarize particular events, identify important issues, and provide key background information in a concise summary format for ease of understanding and presentation. Throughout this process, the authors necessarily review the universe of facts and possible issues arising on the topic at hand, and then select those facts and issues that they deem most appropriate for briefing senior leadership and to provide the necessary background information to other Department employees. The decision to include or exclude certain

factual information in or from analytical documents is itself an important part of the deliberative process. Furthermore, the culling together of this factual information to assist Department employees in learning about a specific topic is, in and of itself, a necessary part of the deliberative and pre-decisional stage. The Department's most senior officials rely heavily on the creation of such briefing materials so that they will be fully informed on the substance of the many legal and policy issues being analyzed in the Department every day in individual offices and to gain understanding of a topic that might be entirely or partially unfamiliar to them.

34. Revealing such opinions and analyses would hinder Department staff's ability to provide candid evaluations on the topics of the day for Department leadership and by extension, Department leadership's ability to prepare for press events, and to provide informed and accurate representation of the Department's interests. If Executive Branch personnel who engage in the pre-decisional process of providing briefing and background materials discern that their recommendations and selection of information to be included in these materials could be released for public consumption, they may be more circumspect in expressing their views to decision-makers who utilize such briefing material.

35. Because the selection of facts and source material is itself a part of the deliberative process inherent to the preparation of briefing materials, which essentially amount to the drafter's own research into the topic or recommendations by the authors, the deliberations in these briefing materials cannot be effectively segregated. Accordingly, these materials are protected in full pursuant to the deliberative process privilege.

*Withheld in Part: E-mails Forwarding News Articles, with Commentary, and/or Discussing Drafts of a Speech; E-mails Discussing Predictive Analytics and the Draft Report; E-mails Discussing Research for Predictive Analytics Report; E-mails Discussing Research for Predictive Analytics Report; E-mails with the White House*<sup>6</sup>

36. Records in OIP's Vaughn Index categorized as the following, were released to plaintiff, in part:

- *E-mails Forwarding News Articles, with Commentary, and/or Discussing Drafts of a Speech* consist of intra-agency e-mails among DOJ staff containing deliberations about how to respond to a particular news article;
- *E-mails Discussing Predictive Analytics and the Draft Report* consist of internal, pre-decisional discussions among DOJ staff about the draft Predictive Analytics Report, which was not finalized at this time;
- *E-mails Discussing Research for Predictive Analytics Report* consist of e-mails among DOJ staff reflecting advice and research for the Predictive Analytics Report obtained through outside third-parties or consultants; and
- *E-mails with the White House* consist of (1) an e-mail from a White House advisor to senior leadership in the DOJ discussing advice for the Predictive Analytics report; and (2) an e-mail from DOJ staff to a White House advisor attaching and discussing the Predictive Analytics Report.

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<sup>6</sup> The presidential communications privilege (PCP) encompassed by FOIA Exemption 5 also applies to the records categorized as *E-mails with the White House*. The application of PCP is discussed below.

37. The e-mails in the above-listed categories are both internal discussions among Department staff, as well as e-mails between DOJ and the White House. The protected portions of these e-mails reflect deliberations regarding media inquiries, the draft language for an upcoming speech by former Attorney General Holder, and internal discussions about the research for and corresponding draft of the Predictive Analytics Report, and discussions with the White House relating to the Predictive Analytics Report.

38. All of these e-mails are pre-decisional because they are antecedent to the finalization of the report within DOJ, to a decision on how to respond regarding a news article, or are communications about the Predictive Analytics Report with the ultimate decision-maker on that report – i.e. the WHCO. They are deliberative because they contain evaluative discussion and preliminary assessments by attorneys and other staff regarding drafts and other matters in which they analyze, make recommendations, give advice, and work toward formulating strategies for final agency action and response. Department officials routinely e-mail each other as they engage in such discussions and develop preliminary assessments about matters on which no final agency decision has been made. All of the e-mails protected in part by OIP pursuant to the deliberative process privilege reflect this preliminary give-and-take of agency deliberations.

39. Disclosure of the e-mails at issue would severely hamper the efficient day-to-day workings of the Department as individuals would no longer feel free to discuss their ideas, strategies, and advice in e-mail messages, and Department employees would be much more circumspect in their discussions with each other and with other Executive Branch officials. This lack of candor would seriously impair the Department's ability to foster the forthright internal discussions necessary for efficient and proper decision-

making. Certainly, disclosure of such preliminary assessments and opinions would make officials contributing to pre-decisional deliberations much more cautious in providing their views. Agency decision-making is at its best when employees are able to focus on the substance of their views and not on whether their views may at some point be made publicly available. All reasonably segregable, non-exempt information was released from within these e-mails, and only the portions protected by the deliberative process privilege were withheld from plaintiff.

Exemption 5: Presidential Communications Documents

40. The records in OIP's Vaughn Index categorized as "*Presidential Communications Documents*" and "*E-mails with the White House*," consist of direct communications between DOJ and the WHCO, which are protected in full by the presidential communications privilege encompassed by FOIA Exemption 5, and in part by the deliberative process privilege. The application of each of these privileges to these record categories will be addressed in turn.

*Presidential Communications Privilege*

41. The presidential communications privilege protects communications or documents that relate to presidential decision-making, which involve the President or his senior advisors. More specifically, the privilege extends to communications among the President and his seniors advisors, and to documents solicited and received by the President and his immediate White House advisors. The presidential communications privilege is broader than the deliberative process privilege, in that it applies to documents in their entirety, and includes decisional and post-decisional records. *See, e.g., Judicial Watch, Inc. v. DOJ*, 365 F.3d 1108 (D.C. Cir. 2004).

42. The records protected by OIP pursuant to the presidential communications privilege in the record categories “*Presidential Communications Documents*” and “*E-mails with the White House*” consist of White House senior advisor communications to the Attorney General soliciting a DOJ policy review and report on data analytics in law enforcement (i.e. the Predictive Analytics Report), the transmission of that report, and early outlines of it, to WHCO, and related communications between DOJ and WHCO about that report. Specifically, these records consist of (1) a White House Chief of Staff memorandum to selected Cabinet members -- including the Attorney General -- following-up on the White House Big Data Report, and tasking selected Departments and agencies with further work on specific areas addressed in the Big Data report, including solicitation of a DOJ review and reporting to WHCO on predictive analytics use in law enforcement; (2) a White House senior advisor’s memorandum to the Attorney General providing additional action steps for DOJ in further follow-up to specific areas addressed in the Big Data report; (3) preliminary, draft outlines of the Predictive Analytics Report drafted by DOJ at the direction of the White House, and transmitted to the WHCO by the Principal Deputy Assistant Attorney General (PDAAG) of OLP; (4) the Predictive Analytics Report and corresponding cover letter, drafted by DOJ at the direction of the White House, and transmitted to the WHCO by the PDAAG of OLP; and, (5) e-mails between White House senior advisors and DOJ staff discussing particulars of and attaching the Predictive Analytics Report.

43. The records withheld by OIP in the above-described records categories fall squarely within the presidential communications privilege. They are communications between senior White House staff and DOJ senior leadership (the Attorney General and

AAG of OLP) and documents solicited and received by the White House from DOJ (the Predictive Analytics Report and draft outlines thereof). As such they are protected in their entireties by the presidential communications privilege.<sup>7</sup>

*Deliberative Process Privilege*

44. Although wholly protected by the presidential communications privilege, the records protected by OIP in the “*Presidential Communications Documents*” and “*E-mails with the White House*” categories are also partially or fully protected by the deliberative process privilege. Specifically, the draft outlines of the Predictive Analytics Report are protected in full by the deliberative process privilege inasmuch as they are drafts. (*See, e.g., paras 23-25, supra*). The remaining communications between DOJ and the White House, including the Predictive Analytics Report, are partially protected by the deliberative process privilege to the extent that they reflect DOJ and White House officials’ internal, deliberative work and advice on matters of presidential concern and decision – in this instance, working discussions between the White House and DOJ as they engage in a decision-making process in follow up to the Big Data Report. These communications occur antecedent to any presidential decision on the matters discussed in and leading up to the submission of the Predictive Analytics Report from DOJ to the WHCO. The Report itself, and communications about the Report, reveal potential benefits and concerns, tentative next steps, questions for consideration, and similar deliberations regarding the use of predictive analytics in law enforcement. Lastly, none

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<sup>7</sup> As a matter of discretion and in order to provide context for the records processed by OIP in this case, OIP segregated the “*E-mails with the White House*” records – redacting only limited portions of these e-mails.

of the records withheld encompass or embody final decisions by the ultimate decision-maker in the matter at hand – i.e. the President and his senior staff.

45. Disclosure of this material protected pursuant to both the presidential communications and deliberative process privileges would inhibit the President’s ability to engage in effective communications and decision-making by interfering with the ability of the President to obtain candid information and written advice from senior leadership officials, who are relied upon and expected to give the President their best possible advice. As such, the reports, the e-mails, and the memoranda between senior DOJ leadership officials and the President’s senior advisors on this particular topic, through which senior leadership officials provide their thorough research and recommendations on matters relating to predictive analytics in law enforcement, fall entirely within the protections afforded by the presidential communications privilege – with overlapping protection by the deliberative process privilege – and are protected in full pursuant to FOIA Exemption 5. As such, there is no additional non-exempt information that may be segregated for release to plaintiff.

Segregation of Non-Exempt Information

46. As addressed in detail throughout this declaration, OIP thoroughly reviewed each of the records discussed above, and withheld from disclosure only that information which would reveal the Department’s pre-decisional decision-making process and/or would reveal the nature of communications with the White House on matters of presidential concern. OIP conducted a line-by-line review of all of the records and released any portions thereof that were not protected by an applicable FOIA exemption, often redacting only portions of sentences or paragraphs within the e-mails disclosed to

plaintiff. In other instances, such as with draft documents, research and briefing materials, these records were protected in full because the disclosure of any portion of these materials would undermine the core advice and analysis that the deliberative process privilege is meant to protect. Records protected in full by the presidential communications privilege, likewise, are not appropriate for segregation inasmuch as that privilege applies to records in their entireties. All reasonably segregable, non-exempt information from these records has been disclosed to plaintiff.

I declare under penalty of perjury that the foregoing is true and correct.



Vanessa R. Brinkmann

Executed this 15th day of February 2018.

# EXHIBIT A

**ELECTRONIC PRIVACY INFORMATION CENTER**

1718 CONNECTICUT AVENUE NW, SUITE 200  
WASHINGTON, D.C. 20009  
202-483-1140  
FAX 202-483-1248

**RECEIVED**  
**JUN 14 2016**  
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**TO: ATTORNEY GENERAL -  
DOJ**

**FROM: NATASHA AMLANI**

COMPANY:

Electronic Privacy Information Center

DATE:

6/15/16

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RECIPIENT'S FAX NUMBER:

(202) 514-1009

SENDER'S EMAIL:

amlani@epic.org

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RECIPIENT'S TELEPHONE NUMBER:

(202) 514-FOIA

SENDER'S TELEPHONE NUMBER:

(202) 483-1140

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TOTAL NO. OF PAGES INCLUDING COVER:

5

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**COMMENTS:**

EPIC FOIA Request

# epic.org ELECTRONIC PRIVACY INFORMATION CENTER

VIA FAX  
June 15, 2016

**Attorney General**  
Laurie Day  
Chief, Initial Request Staff  
Office of Information Policy  
Department of Justice  
Suite 11050  
1425 New York Avenue, N.W.  
Washington, DC 20530-0001  
Fax: (202) 514-1009

Dear FOIA Officer:

This letter constitutes a request under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, and is submitted on behalf of the Electronic Privacy Information Center ("EPIC") to the Federal Communications Commission ("FCC").

EPIC seeks records relating to evidence-based practices in sentencing, including policies, guidelines, source codes, and validation studies.

## Documents Requested

1. All validation studies for risk assessment tools considered for use in sentencing, including but not limited to, COMPAS, LSI-R, and PCRA.
2. All documents pertaining to inquiries for the need of validation studies or general follow up regarding the predictive success of risk assessment tools.
3. All documents, including but not limited to, policies, guidelines, and memos pertaining to the use of evidence-based sentencing.
4. Purchase/sales contracts between risk-assessment tool companies, included but not limited to, LSI-R and the federal government.
5. Source codes for risk assessment tools used by the federal government in pre-trial, parole, and sentencing, from PCRA, COMPAS, LSI-R, and any other tools used.

## Background

Evidence-based assessments predict future behavior by analyzing statistical data. In the criminal justice system, risk-assessment algorithms use data about defendants including their criminal history (e.g. previous offenses, failure to appear in court, violent offenses, etc.) or socio-demographic characteristics (e.g. age, sex, employment status, drug history) to then predict the person's risk of recidivism or risk of failing to appear when on bail. Such predictions are based on average recidivism rates for the group of offenders that share the defendant's characteristics. The recidivism calculation has been used by judges in pretrial release hearings as well as parole and probationary hearings, and are increasingly being used as factor considered in determining sentencing. In addition, the Justice Department's National Institute of Corrections encourages the use of the assessments at every stage of the criminal justice process.<sup>1</sup> However, many have questioned the underlying data, the reliability of the outcomes as well as defendants' lack of opportunity to challenge the results.

In 2014, then U.S. Attorney General Eric Holder called for the U.S. Sentencing Commission to study the use of algorithms in courts, concerned that the scores may be a source of bias.<sup>2</sup> In addition, Jonathan Wroblewski, Director of the Office of Policy and Legislation in the the Justice Department sent a letter to the U.S. Sentencing Commission<sup>3</sup> asking them to study how data analysis was being used in sentencing, and to issue recommendations on how such analysis should be used. The Justice Department expressed reservations about components of sentencing reform legislation pending in Congress<sup>4</sup> that would base prison sentences on factors such as "education level, employment history, family circumstances and demographic information."

There are three main risk assessment tools that are used across the country. These are: Correctional Offender Management Profiling for Alternative Sanctions (COMPAS), Public Safety Assessment (PSA) and Level of Service Inventory Revised (LSI-R). COMPAS, created by the for-profit company Northpointe, assesses variables under five main areas: criminal involvement, relationships/lifestyles, personality/attitudes, family, and social exclusion. The LSI-R, developed by Canadian company Multi-Health Systems, also pulls information from a wide set of factors, ranging from criminal history to personality patterns. Using a narrower set of

<sup>1</sup> Julia Angwin, Jeff Larson, Surya Mattu & Lauren Kirchner, *Machine Bias*, PROPUBLICA (May 23, 2016)

<https://www.propublica.org/article/machine-bias-risk-assessments-in-criminal-sentencing>;  
Evidence-Based Decision Making, NATIONAL INSTITUTE OF CORRECTIONS,  
<http://info.nicic.gov/ebdm/>

<sup>2</sup> Speech Presented at the National Association of Criminal Defense Lawyers 57th Annual Meeting, 27 FED. SENTENCING REPORTER 252 (April 2015),  
<http://fsr.ucpress.edu/content/27/4/252.full.pdf+html>.

<sup>3</sup> Letter from Jonathan Wroblewski, Director of the Office of Policy Legislation to Patti Saris, Chair of the Sentencing Commission (July 29 2014),  
<https://www.justice.gov/sites/default/files/criminal/legacy/2014/08/01/2014annual-letter-final-072814.pdf>.

<sup>4</sup> Recidivism Reduction and Public Safety Act, S.1675, 113th Cong. (2014); Public Safety Enhancement Act, H.R.2656, 113th Cong. (2013).

parameters, The Public Safety Assessment, developed by the Laura and John Arnold Foundation,<sup>5</sup> only considers variables that relate to a defendant's age and criminal history.

In addition, the Post-Conviction Risk Assessment Instrument (PCRA) is an evidence-based tool specific to the federal system. The PCRA uses information from an offender's past to identify both the risk of reoffending and the needs to be addressed to lessen that risk.<sup>6</sup> Two previously proposed pieces of legislation discussed adopting the PCRA in sentencing.

Because risk assessments are controversial yet are being increasingly relied upon, the non-public documents are needed to increase public understanding of how a defendant's risk is determined, and what steps need to be taken to ensure that the criminal justice system produces equitable outcomes. In addition, the documents are essential to give defendants the opportunity to rebut the risk assessments in their cases and provide additional information that may affect the sentence if necessary.

#### Request for "News Media" Fee Status and Fee Waiver

EPIC is a "representative of the news media" for fee classification purposes.<sup>7</sup> Based on EPIC's status as a "news media" requester, EPIC is thus entitled to receive the requested records without being assessed search or review fees, and the documents are not in the commercial interest of EPIC.<sup>8</sup>

In addition, because disclosure of the validity of the evidence-based practices will "contribute significantly to public understanding of the operations or activities of the government," all duplication fees should be waived.<sup>9</sup> The subject of the request, evidence-based practices, has a direct and clear connection to identifiable operations and activities of the federal government, namely policy reform, sentencing of federal criminals, and criminal justice generally. Since the algorithms and results of validation studies, if any, have not been released to the public, the disclosure of the requested records will be meaningfully informative about government operations and activities regarding government use, recommendations, and results of evidence-based practices and thus will be "likely to contribute" to an increased public understanding of those operations and activities. Lastly, since EPIC is a news media requester, it has presumptively satisfied the requirement that the disclosure must contribute to the understanding of a reasonably broad audience of persons interested in the subject, as opposed to

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<sup>5</sup> Press Release, More Than 20 Cities and States Adopt Risk Assessment Tools to Help Judges Decide Which Defendants to Detain Prior to Trial, LAURA AND JOHN ARNOLD FOUNDATION, June 26, 2015, <http://www.arnoldfoundation.org/more-than-20-cities-and-states-adopt-risk-assessment-tool-to-help-judges-decide-which-defendants-to-detain-prior-to-trial/>.

<sup>6</sup> OFFICE OF PROB. AND PRETRIAL SERV.S, ADMIN. OFFICE OF THE U.S. COURTS, AN OVERVIEW OF THE FEDERAL POST CONVICTION RISK ASSESSMENT (2011), <http://www.uscourts.gov/statistics-reports/publications/post-conviction-risk-assessment>.

<sup>7</sup> *EPIC v. Department of Defense*, 241 F. Supp. 2d 5 (D.D.C. 2003).

<sup>8</sup> 5 U.S.C. § 552(a)(4)(A)(ii)(II).

<sup>9</sup> § 552(a)(4)(A)(iii).

the individual understanding of the requester.<sup>10</sup>

Conclusion

Thank you for your consideration of this request. As provided in 5 U.S.C. § 552(a)(6)(E)(ii)(I), I will anticipate your determination on our request within ten business days. For questions regarding this request, John Tran can be contacted at 202-483-1140 x123 or FOIA@epic.org.

Respectfully Submitted,

Natasha Amlani  
EPIC IPIOP Clerk

John Tran  
EPIC FOIA Counsel

cc:  
Office of Justice Programs - Bureau of Justice Statistics  
Attorney General  
Office of Legal Policy  
U.S. Parole Commission

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<sup>10</sup> 28 CFR Part 35 § 16.10(k)(2)(iii)

# EXHIBIT B



**U.S. Department of Justice**  
Office of Information Policy  
Suite 11050  
1425 New York Avenue, NW  
Washington, DC 20530-0001

Telephone: (202) 514-3642

August 9, 2016

Ms. Natasha Amlani  
Electronic Privacy Information Center  
Suite 200  
1718 Connecticut Avenue, NW  
Washington, DC 20009  
[amlani@epic.org](mailto:amlani@epic.org)

Re: DOJ-2016-003626 (AG)  
DOJ-2016-003627 (OLP)  
DRH:SBT

Dear Ms. Amlani:

This is to acknowledge receipt of your Freedom of Information Act (FOIA) request dated and received in this Office on June 15, 2016, in which you requested records relating to evidence-based practices in sentencing, including policies, guidelines, source codes, and validation studies. This response is made on behalf of the Offices of the Attorney General and Legal Policy.

The records you seek require searches in other Offices, and so your request falls within "unusual circumstances." See 5 U.S.C. 552 § (a)(6)(B)(i)-(iii). Because of these unusual circumstances, we need to extend the time limit to respond to your request beyond the ten additional days provided by the statute. The time needed to complete our processing of your request will necessarily depend on the complexity of our records search and on the volume and complexity of any records located. For your information, this Office assigns incoming requests to one of three tracks: simple, complex, or expedited. Each request is then handled on a first-in, first-out basis in relation to other requests in the same track. Simple requests usually receive a response in about a month, whereas complex requests necessarily take longer. At this time, your request has been assigned to the complex track. In an effort to speed up our records search, you may wish to narrow the scope of your request to limit the number of potentially responsive records or 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. You may also contact the Office of Government Information Services (OGIS) of the National Archives and Records Administration to inquire into the FOIA meditation services that they provide. OGIS can be contacted at the following:

Office of Government Information Services  
National Archives and Records Administration  
Room 2510  
8601 Adelphi Road  
College Park, MD 20740-6001

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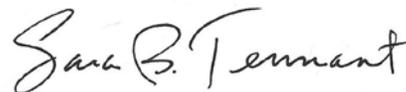
Telephone: (202) 741-5770  
Facsimile: (202) 741-5769  
Toll-Free: (877) 684-6448  
Email: [ogis@nara.gov](mailto:ogis@nara.gov)

We have not yet made a decision on your request for a fee waiver. We will do so after we determine whether fees will be assessed for this request.

Lastly, to the extent you are seeking purchase contracts for risk assessment tools utilized by the Department of Justice, and because the FOIA operation for the Department is decentralized, you may want to direct this portion of your request to the Justice Management Division (JMD), as the Department component most likely to maintain such records, to the extent that they exist. You may also want to direct your request to the U.S. Parole Commission (USPC), given Attorney General Holder's 2014 statement for USPC to study the use of risk assessment algorithms, as referenced in your letter. Contact information for both JMD and USPC can be found on [www.foia.gov](http://www.foia.gov).

I regret the necessity of this delay, but I assure you that your request will be processed as soon as possible. If you have any questions or wish to discuss reformulation or an alternative time frame for the processing of your request, you may contact me by telephone at the above number or you may write to me at the Office of Information Policy, United States Department of Justice, Suite 11050, 1425 New York Avenue, NW, Washington, DC 20530-0001. Lastly, you may contact our FOIA Public Liaison at the telephone number listed above to discuss any aspect of your request.

Sincerely,

A handwritten signature in cursive script that reads "Sara B. Tennant".

Sara B. Tennant  
Senior Government Information Specialist

# EXHIBIT C



**U.S. Department of Justice**  
Office of Information Policy  
Suite 11050  
1425 New York Avenue, NW  
Washington, DC 20530-0001

Telephone: (202) 514-3642

August 16, 2017

Ms. Natasha Amlani  
Electronic Privacy Information Center  
Suite 200  
1718 Connecticut Avenue, NW  
Washington, DC 20009  
[amlani@epic.org](mailto:amlani@epic.org)

Re: DOJ-2016-003626 (AG)  
DOJ-2016-003627 (OLP)  
D.D.C. No. 17-410  
DRC:ACS

Dear Ms. Amlani:

This is an interim response to your Freedom of Information Act (FOIA) request dated and received in this Office on June 15, 2016, in which you requested records relating to evidence-based practices in sentencing, including policies, guidelines, source codes, and validation studies. This response is made on behalf of the Offices of the Attorney General and Legal Policy.

Please be advised that searches have been conducted in the Offices of the Attorney General and Legal Policy pertaining to Parts (4) and (5) of your request. No responsive records were located as a result of these searches. We are continuing to review and process material that is responsive to Parts (1), (2), and (3) of your request. As this material contains information of interest to other entities, we can respond only after consulting with them regarding their information. *See* 28 C.F.R. § 16.4(c)(1) (2017).

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) (2015) (amended 2016). 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 Alex Shoabi of the U.S. Attorney's Office for the District of Columbia, at 202-252-2511.

Sincerely,

A handwritten signature in black ink that reads "Daniel Castellano".

Daniel R. Castellano  
Senior Attorney

# EXHIBIT D



**U.S. Department of Justice**  
Office of Information Policy  
Suite 11050  
1425 New York Avenue, NW  
Washington, DC 20530-0001

Telephone: (202) 514-3642

October 31, 2017

Ms. Natasha Amlani  
Electronic Privacy Information Center  
Suite 200  
1718 Connecticut Avenue, NW  
Washington, DC 20009  
[amlani@epic.org](mailto:amlani@epic.org)

Re: DOJ-2016-003626 (AG)  
DOJ-2016-003627 (OLP)  
D.D.C. No. 17-410  
VRB:ACS

Dear Ms. Amlani:

This is our final response to your Freedom of Information Act (FOIA) request dated and received in this Office on June 15, 2016, in which you requested records relating to evidence-based practices in sentencing, including policies, guidelines, source codes, and validation studies. This response is made on behalf of the Offices of the Attorney General (OAG) and Legal Policy (OLP).

By letter dated August 16, 2017, we provided you with an interim response and informed you that we were continuing to process records on behalf of OAG and OLP. Our work on your request is now complete.

Specifically, we have completed our processing of an additional 2,726 pages containing records responsive to your request. I have determined that 359 pages are appropriate for release with excisions made pursuant to Exemptions 5 and 6 of the FOIA, 5 U.S.C. § 552(b)(5) and (b)(6). Additionally, 2,367 pages are being withheld in full pursuant to Exemption 5. Exemption 5 of the FOIA pertains to certain inter- and intra-agency communications protected by the deliberative process and presidential communications privileges. Exemption 6 of the FOIA pertains to information the release of which would constitute a clearly unwarranted invasion of the personal privacy of third parties. Portions of the records being withheld in full pursuant to Exemption 5 are also withheld pursuant to FOIA Exemption 6.

Furthermore, emails in the enclosed documents which use the account name "Lew Alcindor" denote emails to or from former Attorney General Eric Holder's official Department of Justice email account. Mr. Holder's official email account did not use his name, in order to protect his security and privacy and enable him to conduct Department business efficiently via email.

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) (2015)

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(amended 2016). 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 Alex Shoaibi of the U.S. Attorney's Office for the District of Columbia, at 202-252-2511.

Sincerely,



Vanessa R. Brinkmann  
Senior Counsel

Enclosures

# EXHIBIT E

*Electronic Privacy Information Center v. U.S. Department of Justice*  
D.D.C. No. 1:17-cv-00410

U.S. Department of Justice Office of Information Policy Vaughn Index

This Vaughn Index (Index) contains a description of the 2,491<sup>1</sup> pages of records protected, either in full or in part, by the Office of Information Policy (OIP), pursuant to Exemption 5 of the Freedom of Information Act (FOIA) (deliberative process and presidential communications privileges).<sup>2</sup> The descriptions of each document within this Vaughn Index are meant to be read in tandem with OIP's declaration, filed contemporaneously, which provides a more fulsome explanation of the basis for withholding the information at issue. For ease of presentation and discussion in the declaration, the withheld material has been organized into document categories, which are also noted in this Index. The document categories are as follows:

Documents Withheld in Full (2,363 pages<sup>3</sup>):

*Draft Predictive Analytics Report and Draft Cover Letters* (1,934 pages): Exemption 5 (Deliberative Process Privilege)  
*Predictive Analytics Report Research* (14 pages): Exemption 5 (Deliberative Process Privilege)  
*Predictive Analytics Report Research – Consultant* (282 pages): Exemption 5 (Deliberative Process Privilege)  
*Draft Speech* (45 pages): Exemption 5 (Deliberative Process Privilege)  
*Briefing Material* (49 pages): Exemption 5 (Deliberative Process Privilege)  
*Presidential Communications Documents* (39 pages): Exemption 5 (Deliberative Process and Presidential Communications Privileges)

Documents Withheld in Part (128 pages):

*E-mails Discussing the Draft Predictive Analytics Report* (63 pages): Exemption 5 (Deliberative Process Privilege)  
*E-mails Forwarding News Articles, with Commentary, and/or Discussing Drafts of a Speech* (61 pages): Exemption 5 (Deliberative Process Privilege)  
*E-mails Discussing Research for Predictive Analytics Report* (2 pages): Exemption 5 (Deliberative Process Privilege)  
*E-mails with the White House* (2 pages): Exemption 5 (Deliberative Process and Presidential Communications Privileges)

Component Acronyms:

DOJ: Department of Justice	JMD: Justice Management Division	DPP: Deliberative Process Privilege
OAAG: Office of the Associate Attorney General	OAG: Office of the Attorney General	ODAG: Office of the Deputy Attorney General
OJP: Office of Justice Programs	OLA: Office of Legislative Affairs	OLP: Office of Legal Policy
PAO/OPA: Office of Public Affairs	PCP: Presidential Communications Privilege	WHCO: White House Counsel's Office

<sup>1</sup> Note: OIP's final response to plaintiff reflected a total page count of 2,495 pages. Upon further review of the records in connection with preparing this Index, four pages withheld in full via that response were entirely duplicative and thus have been removed from the final page count.

<sup>2</sup> Note: portions of the pages that were released in part were protected pursuant to Exemption 6 (personal privacy) of the FOIA. Plaintiff is not challenging the Exemption 6 withholdings; accordingly, they are not addressed in either OIP's declaration or OIP's Vaughn Index.

<sup>3</sup> This withheld-in-full page count reflects the correction noted above – i.e., the removal of four duplicative pages.

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D.D.C. No. 1:17-cv-00410

Doc ID	Date	From	To	CC	Number of Pages	Category	Exemption(s)	Description of Withheld Material
<b>Documents Withheld in Full</b>								
N/A	Date Range: September 4, 2014 – November 14, 2014	OLP Staff	Circulated among varied DOJ Staff <sup>4</sup>	N/A	1,934	Draft Predictive Analytics Report, Outlines, and Cover Letters	5: DPP	Working drafts of the Department’s predictive analytics report and cover letters that include multiple revisions made by DOJ staff. The drafts are pre-decisional because they pre-date the completion of the final report and cover letter, and are deliberative because the revisions reflect Departmental deliberations about the substance of the report and cover letter which had not yet been finalized or formalized. Further, they reflect successive versions of documents, thus showing the internal development of the Department’s decisions.

<sup>4</sup> The e-mails attaching and circulating these drafts have been released to plaintiff.

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N/A	Date Range: September 10, 2014 – October 20, 2014	OLP Staff	OLP Staff	N/A	14	Predictive Analytics Report Research	5: DPP	Internal e-mails, bullet points, draft version of a source list, and research selected for and presented to OLP staff working on the draft Predictive Analytics Report. These materials embody the core of the OLP review and report drafting process and reflect Department staff’s preliminary thoughts as to what research may be useful in drafting the Predictive Analytics Report. All of this material pre-dates the report, which was not finalized at this time.
N/A	Date Range: October 6, 2014 – October 21, 2014	OLP Staff	OLP Staff and/or Consultant	OLP Staff	282	Predictive Analytics Report Research – Consultant	5: DPP	Communications and attachments sent between DOJ and third-party consultants, reflecting advice solicited by OLP from outside, expert consultants, and related research regarding the work of those consultants, as

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								part of the drafting and research process for the predictive analytics review and report. The communications and corresponding attachments are pre-decisional and deliberative because they reflect ongoing discussions and research for the review and report, which had not yet been finalized.
N/A	Thursday, July 31, 2014	PAO Staff	Attorney General Holder	OAG/PAO Staff	45	Draft Speech	5: DPP	Draft version of a speech to be given by former Attorney General Eric Holder. The draft is pre-decisional and deliberative because it reflects Departmental deliberations regarding prepared remarks which had not yet been formalized for delivery at an event. This draft pre-dates the Attorney General's delivered remarks, and as such, it is pre-decisional.

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N/A	Thursday, May 28, 2015	OLP Staff	OLP Staff	OLP Staff	42	Briefing Material	5: DPP	Internal briefing presentation materials prepared by Departmental employees to aid in briefing OLP staff on the predictive analytics review. The presentation materials are pre-decisional, and are deliberative because they reflect the drafter's opinions and analysis on significant aspects of the predictive analytics review and report the White House. Revealing such opinions and analyses would hinder Department staff's ability to provide candid evaluations on their work product, and would reveal details regarding the nature of the Department's privileged recommendations and analysis as reflected in the Predictive Analytics Report. Because the selection
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*Electronic Privacy Information Center v. U.S. Department of Justice*  
 D.D.C. No. 1:17-cv-00410

								of facts and source material is itself a part of the deliberative process inherent to preparation of briefing materials, these documents are protected in full pursuant to FOIA Exemption 5.
N/A	Monday, July 28, 2014	PAO	Attorney General	N/A	7	Briefing Material	5: DPP	Briefing paper/"prep memo" prepared by Department staff to assist in the preparation of the Attorney General for a media interview. These briefing materials are not decisional and reflect the drafter's opinions and analysis on important topics and suggestions on how best to respond to questions on these topics from the Department's perspective. Revealing such opinions and analyses would hinder Department staff's ability to provide candid evaluations on

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								the topics of the day for Department leadership and by extension, Department leadership's ability to prepare for media events. Because the selection of facts and source material is itself a part of the deliberative process inherent to preparation of briefing materials, these documents are protected in full pursuant to FOIA Exemption 5.
N/A	Wednesday, November 19, 2014	OLP Staff	WHCO	OLP Staff	26	Presidential Communications Documents	5: DPP/PCP	Department of Justice report and cover letter regarding predictive analytics in law enforcement. This material is a presidential communication which was solicited by, prepared for, and submitted to the WHCO. This material is also pre-decisional and deliberative as it reflects Departmental staff's advice,

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								research, and recommendations to the White House on matters of presidential concern, i.e. the predictive analytics review and report tasked to the Department by the White House.
N/A	Monday, September 15, 2014	OLP Staff	WHCO	OLP Staff	3	Presidential Communications Documents	5: DPP/PCP	Preliminary, draft outline of the Predictive Analytics Report. This material is a presidential communication which was solicited by, prepared for, and submitted to the WHCO. This material is also pre-decisional and deliberative as it reflects Departmental staff's advice, research, and recommendations to the White House on matters of presidential concern, i.e. the predictive analytics review and report tasked to the Department by the White House..

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N/A	Wednesday, September 17, 2014	OLP Staff	WHCO	OLP Staff	4	Presidential Communications Documents	5: DPP/PCP	Preliminary, draft outline of the Predictive Analytics Report. This material is a presidential communication which was solicited by, prepared for, and submitted to the WHCO. This material is also pre-decisional and deliberative as it reflects Departmental staff's advice, research, and recommendations to the White House on matters of presidential concern, i.e. the predictive analytics review and report tasked to the Department by the White House..
N/A	Monday, July 28, 2014	White House Chief of Staff	Selected Cabinet Members, including the Attorney General	Selected Agency Heads	4	Presidential Communications Documents	5: DPP/PCP	White House Memorandum to heads of Departments and Agencies following-up on the White House/Podesta Big Data Report, and tasking selected Departments and Agencies, with

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								<p>further work on specific areas addressed in the Big Data report – including solicitation of a DOJ review and reporting back to WHCO on predictive analytics use in law enforcement. This material is a pre-decisional, deliberative presidential communication, soliciting DOJ action in furtherance of White House policy development efforts on matters of presidential concern, i.e. the predictive analytics report.</p>
N/A	Tuesday, October 21, 2014	WH Senior Advisor	Attorney General	DOJ Staff	2	Presidential Communications Documents	5: DPP/PCP	<p>White House Memorandum to the Attorney General providing further action steps for DOJ in further follow-up to specific areas addressed in the Big Data report. This material is a pre-decisional, deliberative presidential</p>

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								communication, soliciting DOJ action in furtherance of White House policy development efforts on matters of presidential concern, i.e. the predictive analytics report.
<b>Documents Withheld in Part<sup>5</sup></b>								
0.7.11378.29374	Thursday, September 4, 2014	Tyrangiel, Elana (OLP)	Jackson, Wykema C. (OLP)	N/A	1	E-Mails Discussing Predictive Analytics and the Draft Report	5: DPP	Parts of this e-mail chain are protected by the deliberative process privilege of Exemption 5 because they are internal, pre-decisional discussions among DOJ staff about the draft predictive analytics report which was not finalized at this time.
0.7.11378.23698	Tuesday, September 9, 2014	Hecker, Elizabeth (OLP)	Krulic, Alexander (OLP); Pazur, Shannon (OLP)	N/A	1	E-Mails Discussing Predictive Analytics and the Draft Report	5: DPP	Parts of this e-mail chain are protected by the deliberative process privilege of Exemption 5 because they are internal, pre-decisional discussions among DOJ staff about the draft predictive analytics report

<sup>5</sup> The envelope information provided for the “Documents Withheld in Part”, i.e. the “To/From/CC” fields, correlate to the first e-mail in each e-mail chain.

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								which was not finalized at this time.
0.7.11378.23707	Tuesday, September 9, 2014	Hecker, Elizabeth (OLP)	Krulic, Alexander (OLP)	N/A	2	E-Mails Discussing Predictive Analytics and the Draft Report	5: DPP	Parts of this e-mail chain are protected by the deliberative process privilege of Exemption 5 because they are internal, pre-decisional discussions among DOJ staff about the draft predictive analytics report which was not finalized at this time.
0.7.11378.23690	Tuesday, September 9, 2014	Hecker, Elizabeth (OLP)	Tyrangiel, Elana (OLP); Siger, Steven B. (OLP); Krulic, Alexander (OLP); Pazur, Shannon (OLP); Fried, Hannah (OLP); Pronley, Alyssa (JMD)	N/A	2	E-Mails Discussing Predictive Analytics and the Draft Report	5: DPP	Parts of this e-mail chain are protected by the deliberative process privilege of Exemption 5 because they are internal, pre-decisional discussions among DOJ staff about the draft predictive analytics report which was not finalized at this time.
0.7.11378.23648	Thursday, September 11, 2014	Hecker, Elizabeth (OLP)	Krulic, Alexander (OLP)	N/A	1	E-Mails Discussing Predictive Analytics and the Draft Report	5: DPP	Parts of this e-mail chain are protected by the deliberative process privilege of Exemption 5 because they are internal, pre-decisional discussions among

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								DOJ staff about the draft predictive analytics report which was not finalized at this time.
0.7.11378.23735	Thursday, September 11, 2014	Krulic, Alexander (OLP)	Tyrangiel, Elana (OLP); Siger, Steven B. (OLP); Pazur, Shannon (OLP); Hecker, Elizabeth (OLP); Fried, Hannah (OLP); Pronley, Alyssa (JMD)	N/A	1	E-Mails Discussing Predictive Analytics and the Draft Report	5: DPP	Parts of this e-mail chain are protected by the deliberative process privilege of Exemption 5 because they are internal, pre-decisional discussions among DOJ staff about the draft predictive analytics report which was not finalized at this time.
0.7.11378.23660	Tuesday, September 16, 2014	Hecker, Elizabeth (OLP)	Krulic, Alexander (OLP)	N/A	1	E-Mails Discussing Predictive Analytics and the Draft Report	5: DPP	Parts of this e-mail chain are protected by the deliberative process privilege of Exemption 5 because they are internal, pre-decisional discussions among DOJ staff about the draft predictive analytics report which was not finalized at this time.
0.7.11378.24341	Tuesday, September 16, 2014	Siger, Steven B. (OLP)	Tyrangiel, Elana (OLP)	Krulic, Alexander (OLP)	2	E-Mails Discussing Predictive Analytics and the Draft Report	5: DPP	Parts of this e-mail chain are protected by the deliberative process privilege of Exemption 5 because

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								they are internal, pre-decisional discussions among DOJ staff about the draft predictive analytics report which was not finalized at this time.
0.7.11378.29631	Tuesday, September 16, 2014	Tyrangiel, Elana (OLP)	Lan, Iris (ODAG); Walsh, James (ODAG); Brown Lee, Erika (ODAG)	N/A	1	E-Mails Discussing Predictive Analytics and the Draft Report	5: DPP	Parts of this e-mail chain are protected by the deliberative process privilege of Exemption 5 because they are internal, pre-decisional discussions among DOJ staff about the draft predictive analytics report which was not finalized at this time.
0.7.11378.24346	Tuesday, September 16, 2014	Tyrangiel, Elana (OLP)	Lan, Iris (ODAG); Walsh, James (ODAG); Brown Lee, Erika (ODAG)	Krulic, Alexander (OLP); Siger, Steven B. (OLP)	1	E-Mails Discussing Predictive Analytics and the Draft Report	5: DPP	Parts of this e-mail chain are protected by the deliberative process privilege of Exemption 5 because they are internal, pre-decisional discussions among DOJ staff about the draft predictive analytics report which was not finalized at this time.

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0.7.11378.23714	Monday, September 29, 2014	Hecker, Elizabeth (OLP)	Krulic, Alexander (OLP)	Pazur, Shannon (OLP)	1	E-Mails Discussing Predictive Analytics and the Draft Report	5: DPP	Parts of this e-mail chain are protected by the deliberative process privilege of Exemption 5 because they are internal, pre-decisional discussions among DOJ staff about the draft predictive analytics report which was not finalized at this time.
0.7.11378.23719	Thursday, October 2, 2014	Hecker, Elizabeth (OLP)	Krulic, Alexander (OLP); Siger, Steven B. (OLP); Pazur, Shannon (OLP); Fried, Hannah (OLP)	N/A	1	E-Mails Discussing Predictive Analytics and the Draft Report	5: DPP	Parts of this e-mail chain are protected by the deliberative process privilege of Exemption 5 because they are internal, pre-decisional discussions among DOJ staff about the draft predictive analytics report which was not finalized at this time.
0.7.11378.23722	Monday, October 6, 2014	Hecker, Elizabeth (OLP)	Krulic, Alexander (OLP); Pazur, Shannon (OLP)	N/A	1	E-Mails Discussing Predictive Analytics and the Draft Report	5: DPP	Parts of this e-mail chain are protected by the deliberative process privilege of Exemption 5 because they are internal, pre-decisional discussions among DOJ staff about the draft predictive

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								analytics report which was not finalized at this time.
0.7.11378.24378	Thursday, October 16, 2014	Sigar, Steven B. (OLP)	Krulic, Alexander (OLP); Tyrangiel, Elana (OLP)	N/A	2	E-Mails Discussing Predictive Analytics and the Draft Report	5: DPP	Parts of this e-mail chain are protected by the deliberative process privilege of Exemption 5 because they are internal, pre-decisional discussions among DOJ staff about the draft predictive analytics report which was not finalized at this time.
0.7.11378.23779	Friday, October 17, 2014	Fried, Hannah (OLP)	Krulic, Alexander (OLP); Hecker, Elizabeth (OLP)	Pazur, Shannon (OLP)	2	E-Mails Discussing Predictive Analytics and the Draft Report	5: DPP	Parts of this e-mail chain are protected by the deliberative process privilege of Exemption 5 because they are internal, pre-decisional discussions among DOJ staff about the draft predictive analytics report which was not finalized at this time.
0.7.11378.24384	Sunday, October 19, 2014	Krulic, Alexander (OLP)	Tyrangiel, Elana (OLP)	Siger, Steven B. (OLP); Pazur, Shannon (OLP); Hecker, Elizabeth (OLP); Fried, Hannah (OLP);	1	E-Mails Discussing Predictive Analytics and the Draft Report	5: DPP	Parts of this e-mail chain are protected by the deliberative process privilege of Exemption 5 because they are internal, pre-decisional

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				Pronley, Alyssa (JMD)				discussions among DOJ staff about the draft predictive analytics report which was not finalized at this time.
0.7.11378.29990	Thursday, October 23, 2014	Tyrangiel, Elana (OLP)	Kadzik, Peter J. (OLA)	N/A	2	E-Mails Discussing Predictive Analytics and the Draft Report	5: DPP	Parts of this e-mail chain are protected by the deliberative process privilege of Exemption 5 because they are internal, pre-decisional discussions among DOJ staff about the draft predictive analytics report which was not finalized at this time.
0.7.11378.24411	Thursday, October 30, 2014	Hecker, Elizabeth (OLP)	Tyrangiel, Elana (OLP); Siger, Steven B. (OLP); Krucic, Alexander (OLP); Pazur, Shannon (OLP); Fried, Hannah (OLP)	N/A	1	E-Mails Discussing Predictive Analytics and the Draft Report	5: DPP	Parts of this e-mail chain are protected by the deliberative process privilege of Exemption 5 because they are internal, pre-decisional discussions among DOJ staff about the draft predictive analytics report which was not finalized at this time.
0.7.11378.24491	Friday, October 31, 2014	Siger, Steven B. (OLP)	Krucic, Alexander (OLP)	Tyrangiel, Elana (OLP)	2	E-Mails Discussing Predictive	5: DPP	Parts of this e-mail chain are protected by the deliberative process privilege of

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						Analytics and the Draft Report		Exemption 5 because they are internal, pre-decisional discussions among DOJ staff about the draft predictive analytics report which was not finalized at this time.
0.7.11378.24495	Friday, October 31, 2014	Siger, Steven B. (OLP)	Krulic, Alexander (OLP)	Tyrangiel, Elana (OLP)	1	E-Mails Discussing Predictive Analytics and the Draft Report	5: DPP	Parts of this e-mail chain are protected by the deliberative process privilege of Exemption 5 because they are internal, pre-decisional discussions among DOJ staff about the draft predictive analytics report which was not finalized at this time.
0.7.11378.24206	Monday, November 3, 2014	Krulic, Alexander (OLP)	Hecker, Elizabeth (OLP)	Siger, Steven B. (OLP)	1	E-Mails Discussing Predictive Analytics and the Draft Report	5: DPP	Parts of this e-mail chain are protected by the deliberative process privilege of Exemption 5 because they are internal, pre-decisional discussions among DOJ staff about the draft predictive analytics report which was not finalized at this time.

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0.7.11378.24195	Tuesday, November 4, 2014	Hecker, Elizabeth (OLP)	Krulic, Alexander (OLP); Pazur, Shannon (OLP)	N/A	1	E-Mails Discussing Predictive Analytics and the Draft Report	5: DPP	Parts of this e-mail chain are protected by the deliberative process privilege of Exemption 5 because they are internal, pre-decisional discussions among DOJ staff about the draft predictive analytics report which was not finalized at this time.
0.7.11378.24549	Tuesday, November 4, 2014	Krulic, Alexander (OLP)	Tyrangiel, Elana (OLP)	Siger, Steven B. (OLP); Hecker, Elizabeth (OLP); Pazur, Shannon (OLP)	1	E-Mails Discussing Predictive Analytics and the Draft Report	5: DPP	Parts of this e-mail chain are protected by the deliberative process privilege of Exemption 5 because they are internal, pre-decisional discussions among DOJ staff about the draft predictive analytics report which was not finalized at this time.
0.7.11378.24205	Tuesday, November 4, 2014	Krulic, Alexander (OLP)	Hecker, Elizabeth (OLP); Pazur, Shannon (OLP); Siger, Steven B. (OLP)	N/A	1	E-Mails Discussing Predictive Analytics and the Draft Report	5: DPP	Parts of this e-mail chain are protected by the deliberative process privilege of Exemption 5 because they are internal, pre-decisional discussions among DOJ staff about the draft predictive

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								analytics report which was not finalized at this time.
0.7.11378.24266	Tuesday, November 4, 2014	Hecker, Elizabeth (OLP)	Krulic, Alexander (OLP); Siger, Steven B. (OLP); Pazur, Shannon (OLP)	N/A	1	E-Mails Discussing Predictive Analytics and the Draft Report	5: DPP	Parts of this e-mail chain are protected by the deliberative process privilege of Exemption 5 because they are internal, pre-decisional discussions among DOJ staff about the draft predictive analytics report which was not finalized at this time.
0.7.11378.27122	Wednesday, November 5, 2014	Siger, Steven B. (OLP)	Tyrangiel, Elana (OLP); Krulic, Alexander (OLP)	N/A	1	E-Mails Discussing Predictive Analytics and the Draft Report	5: DPP	Parts of this e-mail chain are protected by the deliberative process privilege of Exemption 5 because they are internal, pre-decisional discussions among DOJ staff about the draft predictive analytics report which was not finalized at this time.
0.7.11378.27124	Wednesday, November 5, 2014	Pazur, Shannon (OLP)	Krulic, Alexander (OLP)	N/A	1	E-Mails Discussing Predictive Analytics and the Draft Report	5: DPP	Parts of this e-mail chain are protected by the deliberative process privilege of Exemption 5 because they are internal, pre-decisional

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								discussions among DOJ staff about the draft predictive analytics report which was not finalized at this time.
0.7.11378.27130	Wednesday, November 5, 2014	Tyrangiel, Elana (OLP)	Krulic, Alexander (OLP)	Siger, Steven B. (OLP)	3	E-Mails Discussing Predictive Analytics and the Draft Report	5: DPP	Parts of this e-mail chain are protected by the deliberative process privilege of Exemption 5 because they are internal, pre-decisional discussions among DOJ staff about the draft predictive analytics report which was not finalized at this time.
0.7.11378.24567	Wednesday, November 5, 2014	Krulic, Alexander (OLP)	Tyrangiel, Elana (OLP); Siger, Steven B. (OLP)	Hecker, Elizabeth (OLP); Pazur, Shannon (OLP); Fried, Hannah (OLP)	1	E-Mails Discussing Predictive Analytics and the Draft Report	5: DPP	Parts of this e-mail chain are protected by the deliberative process privilege of Exemption 5 because they are internal, pre-decisional discussions among DOJ staff about the draft predictive analytics report which was not finalized at this time.
0.7.11378.27143	Wednesday, November 5, 2014	Siger, Steven B. (OLP)	Krulic, Alexander (OLP); Tyrangiel, Elana (OLP)	N/A	1	E-Mails Discussing Predictive	5: DPP	Parts of this e-mail chain are protected by the deliberative process privilege of

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						Analytics and the Draft Report		Exemption 5 because they are internal, pre-decisional discussions among DOJ staff about the draft predictive analytics report which was not finalized at this time.
0.7.11378.25233	Thursday, November 6, 2014	Hecker, Elizabeth (OLP)	Krulic, Alexander (OLP)	N/A	1	E-Mails Discussing Predictive Analytics and the Draft Report	5: DPP	Parts of this e-mail chain are protected by the deliberative process privilege of Exemption 5 because they are internal, pre-decisional discussions among DOJ staff about the draft predictive analytics report which was not finalized at this time.
0.7.11378.27375	Thursday, November 6, 2014	Siger, Steven B. (OLP)	Krulic, Alexander (OLP)	N/A	1	E-Mails Discussing Predictive Analytics and the Draft Report	5: DPP	Parts of this e-mail chain are protected by the deliberative process privilege of Exemption 5 because they are internal, pre-decisional discussions among DOJ staff about the draft predictive analytics report which was not finalized at this time.

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0.7.11378.25235	Thursday, November 6, 2014	Krulic, Alexander (OLP)	Hecker, Elizabeth (OLP)	Siger, Steven B. (OLP); Pazur, Shannon (OLP)	1	E-Mails Discussing Predictive Analytics and the Draft Report	5: DPP	Parts of this e-mail chain are protected by the deliberative process privilege of Exemption 5 because they are internal, pre-decisional discussions among DOJ staff about the draft predictive analytics report which was not finalized at this time.
0.7.11378.25243	Thursday, November 6, 2014	Hecker, Elizabeth (OLP)	Krulic, Alexander (OLP)	N/A	1	E-Mails Discussing Predictive Analytics and the Draft Report	5: DPP	Parts of this e-mail chain are protected by the deliberative process privilege of Exemption 5 because they are internal, pre-decisional discussions among DOJ staff about the draft predictive analytics report which was not finalized at this time.
0.7.11378.24973	Thursday, November 6, 2014	Hecker, Elizabeth (OLP)	Tyrangiel, Elana (OLP); Krulic, Alexander (OLP); Siger, Steven B. (OLP); Pazur, Shannon (OLP)	N/A	2	E-Mails Discussing Predictive Analytics and the Draft Report	5: DPP	Parts of this e-mail chain are protected by the deliberative process privilege of Exemption 5 because they are internal, pre-decisional discussions among DOJ staff about the draft predictive

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								analytics report which was not finalized at this time.
0.7.11378.25262	Wednesday, November 12, 2014	Hecker, Elizabeth (OLP)	Krulic, Alexander (OLP); Siger, Steven B. (OLP)	Pazur, Shannon (OLP)	1	E-Mails Discussing Predictive Analytics and the Draft Report	5: DPP	Parts of this e-mail chain are protected by the deliberative process privilege of Exemption 5 because they are internal, pre-decisional discussions among DOJ staff about the draft predictive analytics report which was not finalized at this time.
0.7.11378.28105	Wednesday, November 12, 2014	Tyrangiel, Elana (OLP)	Delery, Stuart F. (OAAG)	Cox, James C. (OAAG)	2	E-Mails Discussing Predictive Analytics and the Draft Report	5: DPP	Parts of this e-mail chain are protected by the deliberative process privilege of Exemption 5 because they are internal, pre-decisional discussions among DOJ staff about the draft predictive analytics report which was not finalized at this time.
0.7.11378.25264	Wednesday, November 12, 2014	Krulic, Alexander (OLP)	Pazur, Shannon (OLP); Hecker, Elizabeth (OLP)	N/A	1	E-Mails Discussing Predictive Analytics and the Draft Report	5: DPP	Parts of this e-mail chain are protected by the deliberative process privilege of Exemption 5 because they are internal, pre-decisional

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								discussions among DOJ staff about the draft predictive analytics report which was not finalized at this time.
0.7.11378.25266	Thursday, November 13, 2014	Hecker, Elizabeth (OLP)	Krulic, Alexander (OLP); Siger, Steven B. (OLP)	Pazur, Shannon (OLP)	1	E-Mails Discussing Predictive Analytics and the Draft Report	5: DPP	Parts of this e-mail chain are protected by the deliberative process privilege of Exemption 5 because they are internal, pre-decisional discussions among DOJ staff about the draft predictive analytics report which was not finalized at this time.
0.7.11378.27581	Thursday, November 13, 2014	Brown Lee, Erika (ODAG)	Tyrangiel, Elana (OLP); Walsh, James (ODAG); Lan, Iris (ODAG)	Krulic, Alexander (OLP); Siger, Steven B. (OLP)	1	E-Mails Discussing Predictive Analytics and the Draft Report	5: DPP	Parts of this e-mail chain are protected by the deliberative process privilege of Exemption 5 because they are internal, pre-decisional discussions among DOJ staff about the draft predictive analytics report which was not finalized at this time.
0.7.11378.28134	Friday, November 14, 2014	Tyrangiel, Elana (OLP)	Kadzic, Peter J. (OLA)	N/A	1	E-Mails Discussing Predictive	5: DPP	Parts of this e-mail chain are protected by the deliberative process privilege of

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						Analytics and the Draft Report		Exemption 5 because they are internal, pre-decisional discussions among DOJ staff about the draft predictive analytics report which was not finalized at this time.
0.7.11378.28165	Friday, November 14, 2014	Tyrangiel, Elana (OLP)	Cheung, Denise (OAG)	N/A	1	E-Mails Discussing Predictive Analytics and the Draft Report	5: DPP	Parts of this e-mail chain are protected by the deliberative process privilege of Exemption 5 because they are internal, pre-decisional discussions among DOJ staff about the draft predictive analytics report which was not finalized at this time.
0.7.11378.25161	Friday, November 14, 2014	Siger, Steven B. (OLP)	Krulic, Alexander (OLP)	Pazur, Shannon (OLP); Hecker, Elizabeth (OLP); Tyrangiel, Elana (OLP)	2	E-Mails Discussing Predictive Analytics and the Draft Report	5: DPP	Parts of this e-mail chain are protected by the deliberative process privilege of Exemption 5 because they are internal, pre-decisional discussions among DOJ staff about the draft predictive analytics report which was not finalized at this time.

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0.7.11378.27636	Friday, November 14, 2014	Siger, Steven B. (OLP)	Krulic, Alexander (OLP); Tyrangiel, Elana (OLP)	N/A	2	E-Mails Discussing Predictive Analytics and the Draft Report	5: DPP	Parts of this e-mail chain are protected by the deliberative process privilege of Exemption 5 because they are internal, pre-decisional discussions among DOJ staff about the draft predictive analytics report which was not finalized at this time.
0.7.11378.25167	Friday, November 14, 2014	Hecker, Elizabeth (OLP)	Tyrangiel, Elana (OLP); Siger, Steven B. (OLP); Krulic, Alexander (OLP); Pazur, Shannon (OLP)	N/A	1	E-Mails Discussing Predictive Analytics and the Draft Report	5: DPP	Parts of this e-mail chain are protected by the deliberative process privilege of Exemption 5 because they are internal, pre-decisional discussions among DOJ staff about the draft predictive analytics report which was not finalized at this time.
0.7.11378.24085	Tuesday, October 21, 2014	Krulic, Alexander (OLP)	Hecker, Elizabeth (OLP); Pazur, Shannon (OLP)	N/A	1	E-Mails Discussing Predictive Analytics and the Draft Report	5: DPP	Parts of this e-mail chain are protected by the deliberative process privilege of Exemption 5 because they are internal, pre-decisional discussions among DOJ staff about the draft predictive

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								analytics report which was not finalized at this time.
0.7.11378.23547	Thursday, September 4, 2014	Fried, Hannah (OLP)	Hecker, Elizabeth (OLP); Pazur, Shannon (OLP); Siger, Steven B. (OLP); Krulic, Alexander (OLP); Tyrangiel, Elana (OLP)	N/A	4	E-Mails Discussing Predictive Analytics and the Draft Report	5: DPP	Parts of this e-mail chain are protected by the deliberative process privilege of Exemption 5 because they are internal, pre-decisional discussions regarding the Department's next steps for the predictive analytics report, which was not finalized at this time.
0.7.11378.11384	Thursday, July 31, 2014	Phillips, Channing D. (OAG)	Leary, Marylou; Werner, Sharon (OAG)	O'Donnell, Denise	7	E-mails Forwarding News Articles, with Commentary, and/or Discussing Drafts of a Speech	5: DPP	E-mail chain among DOJ staff containing deliberations about how to respond to a particular news article. These discussions precede any final decisions or responses to the matters at hand and thus are pre-decisional.
0.7.11378.11381	Thursday, July 31, 2014	Phillips, Channing D. (OAG)	Wroblewski, Jonathan	Werner, Sharon (OAG)	7	E-mails Forwarding News Articles, with Commentary, and/or Discussing Drafts of a Speech	5: DPP	E-mail chain among DOJ staff containing deliberations about how to respond to a particular news article. These discussions precede any final decisions or

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								responses to the matters at hand and thus are pre-decisional.
0.7.11378.11274	Thursday, July 31, 2014	Leary, Marylou	Fallon, Brian (OPA); Leary, Marylou; Phillips, Channing D. (OAG); Werner, Sharon (OAG)	O'Donnell, Denise	8	E-mails Forwarding News Articles, with Commentary, and/or Discussing Drafts of a Speech	5: DPP	E-mail chain among DOJ staff containing deliberations about how to respond to a particular news article. These discussions precede any final decisions or responses to the matters at hand and thus are pre-decisional.
0.7.11378.11258	Thursday, July 31, 2014	Solomon, Amy	Fallon, Brian (OPA)	Mason, Karol V. (OJP); Werner, Sharon (OAG); O'Donnell, Denise	12	E-mails Forwarding News Articles, with Commentary, and/or Discussing Drafts of a Speech	5: DPP	E-mail chain among DOJ staff containing deliberations about how to respond to a particular news article. These discussions precede any final decisions or responses to the matters at hand and thus are pre-decisional.
0.7.11378.11242	Thursday, July 31, 2014	Solomon, Amy	Fallon, Brian (OPA)	Mason, Karol V. (OJP); Werner, Sharon (OAG)	9	E-mails Forwarding News Articles, with Commentary, and/or Discussing Drafts of a Speech	5: DPP	E-mail chain among DOJ staff containing deliberations about how to respond to a particular news article. These discussions precede any final decisions or

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								responses to the matters at hand and thus are pre-decisional. Additionally, this e-mail chain discusses the draft speech for an upcoming conference. Because the speech was not finalized at this time, these discussions concerning what facts should be included in the speech are pre-decisional.
0.7.11378.11230	Thursday, July 31, 2014	Mason, Karol V. (OJP)	Solomon, Amy	Leary, Marylou; Werner, Sharon (OAG); Mason, Karol V. (OJP)	10	E-mails Forwarding News Articles, with Commentary, and/or Discussing Drafts of a Speech	5: DPP	E-mail chain among DOJ staff containing deliberations about how to respond to a particular news article. These discussions precede any final decisions or responses to the matters at hand and thus are pre-decisional.
0.7.11378.10259	Thursday, July 31, 2014	Solomon, Amy	Fallon, Brian (OPA)	Mason, Karol V. (OJP); Werner, Sharon (OAG); Leary, Marylou	3	E-mails Forwarding News Articles, with Commentary, and/or Discussing Drafts of a Speech	5: DPP	E-mail chain among DOJ staff containing deliberations about how to respond to a particular news article. These discussions precede any final decisions or

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								responses to the matters at hand and thus are pre-decisional. Additionally, this e-mail chain discusses the draft speech for an upcoming conference. Because the speech was not finalized at this time, these discussions concerning what facts should be included in the speech are pre-decisional.
0.7.11378.6236	Friday, August 1, 2014	Roberts, Riley (OPA)	Attorney General Holder; Maccoby, Jacob D. (OPA); Lewis, Kevin S. (OPA); Fallon, Brian (OPA); Bradley, Annie (OAG); Mosier, Jenny (OAG); Phillips, Channing D. (OAG)	Richardson, Margaret (OAG)	2	E-mails Forwarding News Articles, with Commentary, and/or Discussing Drafts of a Speech	5: DPP	E-mail chain among DOJ staff discussing the draft speech for an upcoming conference. Because the speech was not finalized at this time, these discussions concerning what facts should be included in the speech are pre-decisional.
0.7.11378.11166	Friday, August 1, 2014	Fallon, Brian (OPA)	Solomon, Amy	Mason, Karol V. (OJP); Werner, Sharon (OAG); Wroblewski, Jonathan; Leary, Marylou	3	E-mails Forwarding News Articles, with Commentary, and/or Discussing Drafts of a Speech	5: DPP	E-mail chain among DOJ staff discussing the draft speech for an upcoming conference. Because the speech was not finalized at this time, these discussions

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								concerning what facts should be included in the speech are pre-decisional.
0.7.11378.23749	Wednesday, September 10, 2014	Pronley, Alyssa (JMD)	Krulic, Alexander (OLP); Hecker, Elizabeth (OLP)	N/A	1	E-mails Discussing Research for Predictive Analytics Report	5: DPP	E-mail among DOJ staff reflecting advice and research for the predictive analytics report obtained through outside third parties or consultants. The communication is deliberative because it reflects discussions about research, obtained through consultants, for the report; which had not yet been finalized or formalized at that time.
0.7.11378.23870	Thursday, October 16, 2014	Hecker, Elizabeth (OLP)	Krulic, Alexander (OLP)	N/A	1	E-mails Discussing Research for Predictive Analytics Report	5: DPP	E-mail among DOJ staff reflecting advice and research for the predictive analytics report obtained through outside third parties or consultants. The communication is deliberative because it reflects discussions about research, obtained through consultants, for the report; which

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								had not yet been finalized or formalized at that time.
Page 286 of 359 in the Released Records	Tuesday, October 21, 2014	Podesta, John	Attorney General Holder	Cole, James (ODAG); Kadzik, Peter J. (OLA)	1	E-mails with the White House	5: DPP/PCP	E-mail from a White House advisor to senior leadership in the DOJ discussing advice for the predictive analytics report; which was drafted for the White House as a matter of presidential concern.
0.7.11378.27723	Wednesday, November 19, 2014	Tyrangiel, Elana (OLP)	Kate Heinzelman	Krulic, Alexander (OLP)	1	E-mails with the White House	5: DPP/PCP	E-mail from DOJ staff to a White House advisor attaching and discussing the predictive analytics report; which was created for the White House, was never released thereafter, and was a matter of presidential concern. Thus, it is inherently protected by the deliberative process and presidential communications privileges.