



United States Department of the Interior

OFFICE OF THE SOLICITOR
Washington, D.C. 20240

IN REPLY REFER TO:
Appeal No. 2015-022

June 22, 2015

(b) (6)

97753

Dear Mr. (b) (6)

This concerns your undated Freedom of Information Act ("FOIA") appeal ("appeal") to the Department of the Interior ("Department"), which the Department received on November 20, 2014, and that it assigned as **Appeal Number 2015-022**. Your appeal concerns your September 22, 2014, FOIA request to the Bureau of Land Management ("BLM") that sought documents contained in the files for the "Buzzard Complex fire" with information relating to an inquiry or investigation that has your name contained in the documentation; "Daily Unit Logs" for personnel whom you identified by name in the request; and your "Incident Personnel Performance Rating" form. In response to the FOIA request, the BLM released some records and withheld, pursuant to FOIA exemptions (6)¹ and (7)(C),² the names and other personal identifying information (e.g., gender, job title, and telephone numbers) of individuals mentioned in 39 pages of the released records. You filed this appeal to challenge the BLM's determination.

Your appeal is **DENIED**. The Department concludes that the BLM properly invoked exemptions (6) and (7)(C) as bases to withhold the names and other personal identifying information of the individuals mentioned in the redacted documents. The documents from which the BLM redacted this information meet the exemption (6) threshold requirement of being "similar files" within the meaning of the exemption, as they contain information that can be identified as applying to a particular individual (e.g., a person's name). The redacted information also meets the exemption (7) threshold of being information compiled for law enforcement purposes in that it reflects information compiled in connection with a law enforcement investigation.

In addition to meeting the threshold requirement of both exemptions, this redacted information also satisfies the requirements for protection under each one, i.e., disclosure could cause an unwarranted invasion of personal privacy. The individuals whose information the BLM redacted in the context of the law enforcement investigation have substantial privacy interests in withholding their identifying information because disclosure could result in embarrassment, harassment, unofficial questioning, or unwanted public attention.

To overcome the significant privacy interests that these individuals have in withholding their identifying information, you must establish that the names and other personal identifying information

¹ Exemption (6) allows an agency to withhold "personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." 5 U.S.C. § 552(b)(6).

² Exemption (7)(C) allows the withholding of records or information compiled for law enforcement purposes, but only to the extent that production of such law enforcement records or information "could reasonably be expected to constitute an unwarranted invasion of personal privacy." 5 U.S.C. § 552(b)(7)(C).

of the individuals is needed to confirm or refute compelling evidence of agency misconduct.³ Absent a showing of compelling evidence of agency misconduct, the privacy interests in withholding identifying information in law enforcement files will always outweigh the insubstantial public interest in disclosure.⁴

In this case, you have offered no such evidence. Instead, you state that you “used individual’s names so [you are] already aware of whom these people are. Because of this [you] feel that [you] should be able to see if these individuals have any documentation filed that contains anything related to [you].” However, your assertion does not allege any misconduct on the part of the agency and, thus, does not amount to the type of compelling evidence of agency misconduct that you must establish exists in order to obtain disclosure of these individuals’ names and other personal identifying information.

Since you have not put forth any compelling evidence of agency misconduct, the Department concludes that, on balance, the substantial privacy interests that the individuals have in withholding their identifying information outweigh the insubstantial public interest in disclosure. As a result, the Department concludes that the BLM properly withheld, pursuant to exemptions (6) and (7)(C), the names and other personal identifying information of individuals mentioned in the documents. Therefore, the information that the BLM redacted from the documents will continue to be withheld.

This completes the Department’s response to your appeal. You have a right to seek judicial review of this decision under 5 U.S.C. § 552(a)(4)(B).

If you have any questions regarding this matter, please call the FOIA Appeals Office at (202) 208-5339.

Sincerely,



Darrell R. Strayhorn
FOIA & Privacy Act Appeals Officer
Department of the Interior

cc: Ryan Witt, FOIA Officer, BLM
Elizabeth Walls, FOIA & Privacy Act Officer, BLM-OR
Geoffrey Painter, Attorney-Advisor, SOL-Pacific Northwest Regional Office
Cindy Cafaro, Departmental FOIA Officer

³ See *National Archives and Records Administration v. Favish*, 541 U.S. 157, 174-75 (2004) (requiring requesters to “establish more than a bare suspicion [that responsible officials acted negligently or otherwise improperly in the performance of their duties] in order to obtain disclosure” and finding requesters “must produce evidence that would warrant a belief by a reasonable person that the alleged Government impropriety might have occurred.”).

⁴ Exemptions (6) and (7) (C) require identifying and balancing relevant privacy and public interests to determine whether disclosure is appropriate. See *Department of Justice v. Reporters Committee for Freedom of the Press*, 489 U.S. 749 (1989). When the privacy interest at stake and the public interest in disclosure have been determined, the two competing interests must be weighed against one another to determine which is the greater result of disclosure: the harm to personal privacy or the benefit to the public.