

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ANIMAL PARTISAN
11357 Nuckols Road
#138

Glen Allen, Virginia 23059

Plaintiff,

v.

FEDERAL BUREAU OF INVESTIGATION
935 Pennsylvania Avenue, NW
Washington, DC 20535

Defendant.

Civil Action No. 23-1990

COMPLAINT

Plaintiff Animal Partisan (“Plaintiff”) brings this suit against Defendant Federal Bureau of Investigation (“Defendant”). In support thereof, Plaintiff states as follows:

INTRODUCTION

1. This is an action brought pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, for declaratory, injunctive, and other appropriate relief. Through FOIA, Plaintiff seeks records related to the FBI’s involvement in the North American Meat Institute’s Animal Care and Handling Conference. Ex. 1.
2. The conferences at issue here relate to two conferences held by the North American Meat Institute (NAMI). The FBI has confirmed the existence of responsive records, but declined to produce any records under Exemption 7(A) of FOIA. Ex. 2.

BACKGROUND

3. NAMI is a trade association that represents companies that process 95 percent of beef, pork, veal and 70 percent of turkey products in the United States.¹
4. Past conferences held by NAMI have publicly featured speakers from the Federal Bureau of Investigations. Ex. 3.

PARTIES

5. Plaintiff, Animal Partisan, is an animal rights organization dedicated to alleviating the suffering of animals used in agriculture and research through legal action.
6. Defendant, FBI, is an agency within the meaning of 5 U.S.C. § 552(f)(1). The FBI has possession and control of records requests by Plaintiff.

JURISDICTION AND VENUE

7. This Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) (FOIA citizen suit provision) and 28 U.S.C. § 1331 (federal question).
8. Venue in this Court is proper pursuant to 5 U.S.C. § 552(a)(4)(B).

FACTUAL ALLEGATIONS

9. On October 27, 2022, Plaintiff submitted a FOIA request through the FBI's online portal. Ex. 1. The request sought numerous types of records including records showing the FBI's involvement in two conferences, NAMI's 2020, and 2022 Animal Care and Handling Conferences ("Conferences"). *Id.*
10. On November 2, 2022, Defendant responded stating it was "unable to identify records subject to the [Freedom of Information/Privacy Acts] FOIPA that are responsive to [Plaintiff's]

¹ NAMI, *About NAMI*, <https://www.meatinstitute.org//index.php/d/sp/i/204/pid/204?ht=d/sp/i/204/pid/204> (last visited June 30, 2023).

request” and closed the request. Ex. 4. Defendant also stated if Plaintiff had additional information it should “submit a new request.” *Id.* Defendant assigned FOIPA Request No. 1570974-000. *Id.*

11. On November 2, 2022, Plaintiff submitted a renewed request with additional information on the Conferences. Ex. 5.

12. On November 8, 2022, Defendant acknowledged receipt of Plaintiff’s additional information and assigned it FOIPA Request No. 1570974-001. Ex.6.

13. On November 15, 2022, after Plaintiff’s additional information, Defendant denied the request in full claiming that the responsive records were exempt from disclosure under FOIA Exemption 7(A). Ex. 2. Defendant did not explain how Exemption 7(A) applied to a request for records about public conference attendees and panelists, and instead simply recited the elements which must be met for the exemption to apply. *Id.*

14. On December 1, 2022, Plaintiff submitted an appeal of Defendant’s denial to the Department of Justice (DOJ), detailing Plaintiff’s argument in Section I(B) of the appeal letter. Ex. 7.

15. On January 30, 2023, the DOJ submitted a letter denying the appeal. Ex. 8.

16. As of the filing of this Complaint, Plaintiff has received zero records in full and zero records with redactions.

LEGAL FRAMEWORK OF FOIA

17. FOIA requires, *inter alia*, that all federal agencies must promptly provide copies of all non-exempt agency records to those persons who make a request for records that reasonably describes the nature of the records sought, and which conform with agency regulations and procedures in requesting such records. 5 U.S.C. § 552(a)(3)(A).

18. FOIA provides that any person who has not been provided the records requested pursuant to FOIA, after exhausting their administrative remedies, may seek legal redress from the Federal District Court to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant. 5 U.S.C. § 552(a)(4)(B).

19. Under FOIA, the federal agency has the burden to sustain its actions. *Id.*

20. FOIA requires that agencies separate any “reasonably segregable portion of the record.” 5 U.S.C. 552(b). Information is generally considered reasonably segregable unless exempt and nonexempt information are “inextricably intertwined.” *Mead Data Cent., Inc. v. Department of the Air Force*, 566 F.2d. 242, 260 (D.C. Cir. 1977).

21. Exemption 7(A) applies to “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 interfere with enforcement proceedings.” 5 U.S.C. § 552(b)(7)(A). To meet this standard, a two-step inquiry is undertaken. First, the information in the records must be part of a pending or reasonably anticipated law enforcement proceeding, and second the release must be expected to harm the proceeding. *See Juarez v. DOJ*, 518 F.3d 54, 58-59 (D.C. Cir. 2008).

22. Pursuant to FOIA, this Court may assess attorneys' fees and litigation costs against the United States if the Plaintiff prevails in this action. 5 U.S.C. § 552(a)(4)(E).

CLAIMS FOR RELIEF

COUNT I – DEFENDANT’S IMPROPER APPLICATION OF EXEMPTION 7(A)

23. The above paragraphs are incorporated by reference.

24. The request seeks the disclosure of agency records and was properly made.
25. FBI is a federal agency subject to FOIA.
26. Included within the scope of the request are one or more records or portions thereof that are not exempt under FOIA.
27. The FBI improperly applied exemption 7(A) to this request.

COUNT II – DEFENDANT’S FAILURE TO CONDUCT A REASONABLE SEARCH

28. The above paragraphs are incorporated by reference.
29. The request seeks the disclosure of agency records and was properly made.
30. FBI is a federal agency subject to FOIA.
31. FBI has failed to conduct a reasonable search for records responsive to the request.

COUNT III – DEFENDANT’S FAILURE TO PRODUCE RECORDS

32. The above paragraphs are incorporated by reference.
33. The request seeks the disclosure of agency records and was properly made.
34. FBI is a federal agency subject to FOIA.
35. Included within the scope of the request is one or more records or portions thereof that are not exempt under FOIA.
36. FBI has failed to produce records responsive to the request.

REQUESTS FOR RELIEF

WHEREFORE, Animal Partisan asks the Court to:

- i. declare that Defendant violated FOIA;
- ii. order Defendant to conduct a reasonable search for records;
- iii. order Defendant to properly apply FOIA’s exemptions;

- iv. order Defendant to promptly produce all non-exempt responsive records or portions of records;
- v. enjoin Defendant from withholding non-exempt public records under FOIA;
- vi. award Animal Partisan attorneys' fees and costs; and,
- vii. award such other relief the Court considers appropriate.

Dated: July 11, 2023

RESPECTFULLY SUBMITTED,

/s/ C. Peter Sorenson
Attorney for Plaintiff,
C. Peter Sorenson
DC Bar #438089
Sorenson Law Office
PO Box 10836
Eugene, OR 97440
(541) 606-9173
peter@sorensonfoialaw.com

Exhibit 1



11357 Nucklos Road, #138, Glen Allen, Virginia 23059
info@animalpartisan.org | www.animalpartisan.org

October 27, 2022

Submitted online at EFOIPA

Federal Bureau of Investigation
Attn: Initial Processing Operations Unit
Record/Information Dissemination Section
200 Constitution Drive
Winchester, VA 22602

Dear FOIA Officer,

This is a request under the Freedom of Information Act, 5 U.S.C. § 552, *et seq.* This request is submitted pursuant to the FBI's October 27, 2022 administrative closure of FOIPA Request Number NFL-144184 which included a request for more specific search parameters.

On behalf of Animal Partisan, I request electronic copies of any records dated or transmitted between January 1, 2020 as follows:

- **Any records involving communications or interactions between the FBI and any of the following named individuals:**
 - Hannah Thompson-Weeman (Animal Agriculture Alliance)
 - Abby Kornegay (Animal Agriculture Alliance)
 - Brett Johnson (Tyson Foods)
 - Dean Banks (Tyson Foods)
 - Noel White (Tyson Foods)
 - Amy Tu (Tyson Foods)
 - John Tignor (Smithfield Foods)
 - Martin Culbreth (Smithfield Foods)
 - Nicholas White (JBS)
 - Forrest Lucas (Protect the Harvest)
 - Dale Ludwig (Protect the Harvest)
 - Mindy Patterson (The Cavalry Group)
 - Alexander Penalta (The Cavalry Group)
 - Mark Patterson (The Cavalry Group)
- **Any records related the FBI's involvement in any of the following conferences, including as presenters, consultants, panelists, or attendees:**
 - FBI/ODA/USDA Animal/Plant Health Joint Criminal-Epidemiological Investigations Course

- Held at the Ohio Department of Agriculture, Bromfield Building, 8995 East Main Street, Reynoldsburg, Ohio 43068 on May 1-2, 2019.
- North American Meat Institute Animal Care and Handling Conference
 - Held at the Westin Kansas City at Crown Center, Kansas City, Missouri 64108 on September 13-14, 2022
- North American Meat Institute Animal Care and Handling Conference
 - Held virtually on October 12-16, 2020.

- **Any emails sent by or received by the following Special Agents that include any of the following words: “agriculture”, “agricultural”, “animal”, “rights”, “activist”, “Tyson”, “JBS”, “Smithfield”, “alliance”, “meat”, “dairy”, “egg”, or “poultry”.**
 - FBI Special Agent Chris Ford (Texas)
 - FBI Special Agent C. Daniel Sturgill (Arkansas)
 - FBI Special Agent Scott Mahloch (Wisconsin)
 - FBI Special Agent Chris Andersen (Utah)

Under FOIA, agencies must release information unless it is specifically exempt from disclosure.

¹ The law also requires that agencies release all reasonably segregable nonexempt portions of documents (i.e., to redact exempt portions of documents and release the rest).²

I request a waiver of all fees associated with this request. These records are not being requested for commercial use and their disclosure is in the public interest as it is likely to contribute significantly to public understanding of the government’s involvement in animal agriculture and/or research. Animal Partisan is a Virginia non-stock corporation focused on ending the suffering of animals used in agriculture and research. The organization maintains a public website³ and social media platforms that are used to inform the public of government activities involving animals in agriculture and research. Moreover, Animal Partisan’s founder and Legal Counsel has a proven history of using the media to expose the workings of the government through public records.⁴ Should the fee waiver be denied, please notify me before fulfilling this request.

If you have any questions on this request, please contact me at wlowrey@animalpartisan.org or (804) 307-4102. Thank you in advance for your assistance with this matter.



Legal Counsel
Animal Partisan

¹ 5 U.S.C. § 552(a)(8)(i).

² 5 U.S.C. § 552(a)(8)(ii).

³ Home, ANIMAL PARTISAN, www.animalpartisan.org (last visited Oct. 21, 2022).

⁴ See for example M. Bolotnikova, *Amid Bird Flu, Meat Producers Seek “Ventilation Shutdown” for Mass Chicken Killing*, THE INTERCEPT, <https://theintercept.com/2022/04/14/killing-chickens-bird-flu-vs-d/> (last visited Oct. 21, 2022); A. Lacey, *Monkeys being used for opioid research at YCU, graduate calls for transparency*, WRIC, <https://www.wric.com/news/taking-action/monkeys-being-used-for-opioid-research-at-vcu-graduate-calls-for-transparency/> (last visited Oct. 21, 2022).

wlowrey@animalpartisan.org
(804) 307-4102

Exhibit 2



U.S. Department of Justice

Federal Bureau of Investigation
Washington, D.C. 20535

November 15, 2022

MR. WILL LOWREY
NUMBER 138
11357 NUCKOLS ROAD
GLEN ALLEN, VA 23059

FOIPA Request No.: 1570974-001
Subject: North American Meat Institute Animal Care
and Handling Conferences
(October 12-16, 2020 and September 13 to
14, 2022)

Dear Mr. Lowrey:

This responds to your Freedom of Information/Privacy Acts (FOIPA) request. Please see the paragraphs below for relevant information specific to your request as well as the enclosed FBI FOIPA Addendum for standard responses applicable to all requests.

The FBI has completed its search for records subject to the FOIPA that are responsive to your request. The material you requested is located in an investigative file which is exempt from disclosure pursuant to 5 U.S.C. § 552(b)(7)(A). 5 U.S.C. § 552(b)(7)(A) exempts from disclosure:

records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information ... could reasonably be expected to interfere with enforcement proceedings...

The records responsive to your request are law enforcement records; there is a pending or prospective law enforcement proceeding relevant to these responsive records, and release of the information could reasonably be expected to interfere with enforcement proceedings. Therefore, your request is being administratively closed. For a further explanation of this exemption, see the enclosed Explanation of Exemptions.

Please refer to the enclosed FBI FOIPA Addendum for additional standard responses applicable to your request. **"Part 1"** of the Addendum includes standard responses that apply to all requests. **"Part 2"** includes additional standard responses that apply to all requests for records about yourself or any third party individuals. **"Part 3"** includes general information about FBI records that you may find useful. Also enclosed is our Explanation of Exemptions.

For questions regarding our determinations, visit the www.fbi.gov/foia website under "Contact Us." The FOIPA Request Number listed above has been assigned to your request. Please use this number in all correspondence concerning your request.

If you are not satisfied with the Federal Bureau of Investigation's determination in response to this request, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, 441 G Street, NW, 6th Floor, Washington, D.C. 20530, or you may submit an appeal through OIP's FOIA STAR portal by creating an account following the instructions on OIP's website: <https://www.justice.gov/oip/submit-and-track-request-or-appeal>. Your appeal must be postmarked or electronically transmitted within ninety (90) days of the date of my response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal." Please cite the FOIPA Request Number assigned to your request so it may be easily identified.

You may seek dispute resolution services by emailing the FBI's FOIA Public Liaison at foipaquestions@fbi.gov. The subject heading should clearly state "Dispute Resolution Services." Please also cite the FOIPA Request Number assigned to your request so it may be easily identified. You may also contact the Office of Government Information Services (OGIS). The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Sincerely,



Michael G. Seidel
Section Chief,
Record/Information
Dissemination Section
Information Management Division

Enclosure(s)

As referenced in our letter responding to your Freedom of Information/Privacy Acts (FOIPA) request, the FBI FOIPA Addendum provides information applicable to your request. Part 1 of the Addendum includes standard responses that apply to all requests. Part 2 includes standard responses that apply to requests for records about individuals to the extent your request seeks the listed information. Part 3 includes general information about FBI records, searches, and programs.

Part 1: The standard responses below apply to all requests:

- (i) **5 U.S.C. § 552(c).** Congress excluded three categories of law enforcement and national security records from the requirements of the FOIPA [5 U.S.C. § 552(c)]. FBI responses are limited to those records subject to the requirements of the FOIPA. Additional information about the FBI and the FOIPA can be found on the www.fbi.gov/foia website.
 - (ii) **Intelligence Records.** To the extent your request seeks records of intelligence sources, methods, or activities, the FBI can neither confirm nor deny the existence of records pursuant to FOIA exemptions (b)(1), (b)(3), and as applicable to requests for records about individuals, PA exemption (j)(2) [5 U.S.C. §§ 552/552a (b)(1), (b)(3), and (j)(2)]. The mere acknowledgment of the existence or nonexistence of such records is itself a classified fact protected by FOIA exemption (b)(1) and/or would reveal intelligence sources, methods, or activities protected by exemption (b)(3) [50 USC § 3024(i)(1)]. This is a standard response and should not be read to indicate that any such records do or do not exist.
- Part 2: The standard responses below apply to all requests for records on individuals:**
- (i) **Requests for Records about any Individual—Watch Lists.** The FBI can neither confirm nor deny the existence of any individual's name on a watch list pursuant to FOIA exemption (b)(7)(E) and PA exemption (j)(2) [5 U.S.C. §§ 552/552a (b)(7)(E), (j)(2)]. This is a standard response and should not be read to indicate that watch list records do or do not exist.
 - (ii) **Requests for Records about any Individual—Witness Security Program Records.** The FBI can neither confirm nor deny the existence of records which could identify any participant in the Witness Security Program pursuant to FOIA exemption (b)(3) and PA exemption (j)(2) [5 U.S.C. §§ 552/552a (b)(3), 18 U.S.C. 3521, and (j)(2)]. This is a standard response and should not be read to indicate that such records do or do not exist.
 - (iii) **Requests for Confidential Informant Records.** The FBI can neither confirm nor deny the existence of confidential informant records pursuant to FOIA exemptions (b)(7)(D), (b)(7)(E), and (b)(7)(F) [5 U.S.C. § 552 (b)(7)(D), (b)(7)(E), and (b)(7)(F)] and Privacy Act exemption (j)(2) [5 U.S.C. § 552a (j)(2)]. The mere acknowledgment of the existence or nonexistence of such records would reveal confidential informant identities and information, expose law enforcement techniques, and endanger the life or physical safety of individuals. This is a standard response and should not be read to indicate that such records do or do not exist.

Part 3: General Information:

- (i) **Record Searches and Standard Search Policy.** The Record/Information Dissemination Section (RIDS) searches for reasonably described records by searching systems, such as the Central Records System (CRS), or locations where responsive records would reasonably be found. The CRS is an extensive system of records consisting of applicant, investigative, intelligence, personnel, administrative, and general files compiled by the FBI per its law enforcement, intelligence, and administrative functions. The CRS spans the entire FBI organization, comprising records of FBI Headquarters, FBI Field Offices, and FBI Legal Attaché Offices (Legats) worldwide; Electronic Surveillance (ELSUR) records are included in the CRS. The standard search policy is a search for main entity records in the CRS. Unless specifically requested, a standard search does not include a search for reference entity records, administrative records of previous FOIPA requests, or civil litigation files.
 - a. *Main Entity Records* – created for individuals or non-individuals who are the subjects or the focus of an investigation
 - b. *Reference Entity Records*- created for individuals or non-individuals who are associated with a case but are not known subjects or the focus of an investigation
- (ii) **FBI Records.** Founded in 1908, the FBI carries out a dual law enforcement and national security mission. As part of this dual mission, the FBI creates and maintains records on various subjects; however, the FBI does not maintain records on every person, subject, or entity.
- (iii) **Foreseeable Harm Standard.** As amended in 2016, the Freedom of Information Act provides that a federal agency may withhold responsive records only if: (1) the agency reasonably foresees that disclosure would harm an interest protected by one of the nine exemptions that FOIA enumerates, or (2) disclosure is prohibited by law (5 United States Code, Section 552(a)(8)(A)(i)). The FBI considers this foreseeable harm standard in the processing of its requests.
- (iv) **Requests for Criminal History Records or Rap Sheets.** The Criminal Justice Information Services (CJIS) Division provides Identity History Summary Checks – often referred to as a criminal history record or rap sheet. These criminal history records are not the same as material in an investigative "FBI file." An Identity History Summary Check is a listing of information taken from fingerprint cards and documents submitted to the FBI in connection with arrests, federal employment, naturalization, or military service. For a fee, individuals can request a copy of their Identity History Summary Check. Forms and directions can be accessed at www.fbi.gov/about-us/cjis/identity-history-summary-checks. Additionally, requests can be submitted electronically at www.edo.cjis.gov. For additional information, please contact CJIS directly at (304) 625-5590.

EXPLANATION OF EXEMPTIONS

SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552

- (b)(1) (A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified to such Executive order;
- (b)(2) related solely to the internal personnel rules and practices of an agency;
- (b)(3) specifically exempted from disclosure by statute (other than section 552b of this title), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;
- (b)(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;
- (b)(5) 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;
- (b)(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;
- (b)(7) records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or (F) could reasonably be expected to endanger the life or physical safety of any individual;
- (b)(8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or
- (b)(9) geological and geophysical information and data, including maps, concerning wells.

SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552a

- (d)(5) information compiled in reasonable anticipation of a civil action proceeding;
- (j)(2) material reporting investigative efforts pertaining to the enforcement of criminal law including efforts to prevent, control, or reduce crime or apprehend criminals;
- (k)(1) information which is currently and properly classified pursuant to an Executive order in the interest of the national defense or foreign policy, for example, information involving intelligence sources or methods;
- (k)(2) investigatory material compiled for law enforcement purposes, other than criminal, which did not result in loss of a right, benefit or privilege under Federal programs, or which would identify a source who furnished information pursuant to a promise that his/her identity would be held in confidence;
- (k)(3) material maintained in connection with providing protective services to the President of the United States or any other individual pursuant to the authority of Title 18, United States Code, Section 3056;
- (k)(4) required by statute to be maintained and used solely as statistical records;
- (k)(5) investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment or for access to classified information, the disclosure of which would reveal the identity of the person who furnished information pursuant to a promise that his/her identity would be held in confidence;
- (k)(6) testing or examination material used to determine individual qualifications for appointment or promotion in Federal Government service the release of which would compromise the testing or examination process;
- (k)(7) material used to determine potential for promotion in the armed services, the disclosure of which would reveal the identity of the person who furnished the material pursuant to a promise that his/her identity would be held in confidence.

Exhibit 3



One unified voice for meat and poultry companies, large and small.



- ABOUT US
- CONTACT
- MEMBERSHIP
- MEDIA
- EVENTS
- INDUSTRY ISSUES
- CRISIS CENTER
- CORONAVIRUS
- PROTEIN PACT

NAMI is in the process of updating its current website and membership database to provide better resources and tools for our members. During this period, users will be unable to maintain their profile information or make online payments. We anticipate the new website and membership database will be live for members starting Tuesday, July 18. For questions or additional information please contact Megan McCullough at mmccullough@meatinstitute.org.

Media/Public

- Fact Sheets
- Media Contacts
- Press Releases

Archived Releases

- Third Party Experts
- CAMP Program
- Donate Surplus Product
- Meatup [must be logged in to view]

2006 AMIF Animal Care and Handling Conference Slated for Feb. 23-24, 2006 In Kansas City

Wednesday, September 21, 2005

Representatives of Wal-Mart, McDonald's and the Federal Bureau of Investigation Counterterrorism Division will headline the AMI Foundation Animal Care and Handling Conference for the Food Industry, February 23-24, 2006, at the Sheraton Overland Park in Overland Park, KS, just outside Kansas City.

The conference will again offer an opening general session followed by three tracks: Management and Policy, Applied Pig Handling and Applied Cattle Handling.

This year's conference boasts 11 cosponsoring organizations: The American Association of Bovine Practitioners; American Association of Swine Veterinarians; Animal Agriculture Alliance; Food Marketing Institute; National Cattlemen's Beef Association; National Grocers Association; National Milk Producers Federation; National Pork Board; National Pork Producers Council; National Council of Chain Restaurants; and the National Restaurant Association.

Joan Menke-Schaenzer, vice president of food safety and security at Wal-Mart, and Bob Langert, director of social responsibility at McDonald's, will deliver a "keynote panel discussion" of consumer expectations for animal welfare. The discussion will be moderated by Charlie Arnot, president of CMA Consulting.

Also during the conference's opening general session, John Lewis, director of the FBI's counterterrorism division, will deliver a provocative talk on animal extremism and the challenges faced in the United States.

Exhibit 4



U.S. Department of Justice

Federal Bureau of Investigation
Washington, D.C. 20535

November 2, 2022

MR. WILL LOWREY
ANIMAL PARTISAN
NUMBER 138
11357 NUCKOLS ROAD
GLEN ALLEN, VA 23059

Request No.: 1570974-000
Subject: North American Meat Institute
Animal Care and Handling Conferences
(October 12-16, 2020 and September 13 to
14, 2022)

Dear Mr. Lowrey:

This is in response to your Freedom of Information/Privacy Acts (FOIPA) request. Based on the information you provided, we conducted a main entity record search of the Central Records System (CRS) per our standard search policy. However, we were unable to identify records subject to the FOIPA that are responsive to your request. Therefore, your request is being closed. If you have additional information pertaining to the subject of your request, please submit a new request providing the details, and we will conduct an additional search. For more information about records searches and the standard search policy, see the enclosed FBI FOIPA Addendum General Information Section.

Please see the paragraphs below for relevant information that may be specific to your request. Only checked boxes contain corresponding paragraphs relevant to your request. If no boxes are checked, the corresponding information does not apply.

- Please be advised that your request was reopened based on the additional information you provided. A new search was conducted, and we were unable to identify records subject to the FOIPA that are responsive to your request.
- Records potentially responsive to your request were destroyed. Since this material could not be reviewed, it is not known if it was responsive to your request. Record retention and disposal is carried out under supervision of the National Archives and Records Administration (NARA) according to Title 44 United States Code Section 3301, Title 36 Code of Federal Regulations (CFR) Chapter 12 Sub-chapter B Part 1228, and 36 CFR 1229.10. Please be advised that the General Records Schedule (GRS) disposition authority for FOIPA records is DAA-GRS-2016-0002-0001 (GRS 4.2, Item 020).
- Records potentially responsive to your request were transferred to the National Archives and Records Administration (NARA). If you wish to review these records, file a FOIPA request with NARA at the following address:

National Archives and Records Administration
Special Access and FOIA
8601 Adelphi Road, Room 5500
College Park, MD 20740-6001
- Potentially responsive records were identified during the search. However, we were advised that they were not in their expected locations. An additional search for the missing records also met with unsuccessful results. Since we were unable to review the records, we were unable to determine if they were responsive to your request.
- The identification records requested are maintained by the FBI's Criminal Justice Information Services (CJIS) Division; therefore, we have forwarded a portion of your request to CJIS for processing. To check the status of this request, please contact CJIS directly at (304) 625-5590. For additional information, see the enclosed FBI FOIPA Addendum General Information Section.

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Requests for expedited processing are not applicable when a final response is issued within ten calendar days.

Police departments should be aware that the search conducted was limited to FBI records. Requests for criminal history records or rap sheets should be directed to Criminal Justice Information Services (CJIS). Information regarding CJIS is listed in the enclosed FBI FOIPA Addendum General Information Section.

Records potentially responsive to your request were transferred to the National Personnel Records Center - Civilian Personnel Records (NPRC-CPR). In order to obtain information on a file located at the NPRC, your request must be mailed to the following address:

National Archives and Records Administration
ATTN: Archival Programs
P.O. Box 38757
St. Louis, MO 63138

Please refer to the enclosed FBI FOIPA Addendum for additional standard responses applicable to your request. **"Part 1"** of the Addendum includes standard responses that apply to all requests. **"Part 2"** includes additional standard responses that apply to all requests for records about yourself or any third party individuals. **"Part 3"** includes general information about FBI records that you may find useful. Also enclosed is our Explanation of Exemptions.

For questions regarding our determinations, visit the www.fbi.gov/foia website under "Contact Us." The FOIPA Request Number listed above has been assigned to your request. Please use this number in all correspondence concerning your request.

If you are not satisfied with the Federal Bureau of Investigation's determination in response to this request, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, 441 G Street, NW, 6th Floor, Washington, D.C. 20530, or you may submit an appeal through OIP's FOIA STAR portal by creating an account following the instructions on OIP's website: <https://www.justice.gov/oip/submit-and-track-request-or-appeal>. Your appeal must be postmarked or electronically transmitted within ninety (90) days of the date of my response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal." Please cite the FOIPA Request Number assigned to your request so it may be easily identified.

You may seek dispute resolution services by emailing the FBI's FOIA Public Liaison at foipaquestions@fbi.gov. The subject heading should clearly state "Dispute Resolution Services." Please also cite the FOIPA Request Number assigned to your request so it may be easily identified. You may also contact the Office of Government Information Services (OGIS). The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Sincerely,



Michael G. Seidel
Section Chief
Record/Information
Dissemination Section
Information Management Division

Enclosures

As referenced in our letter responding to your Freedom of Information/Privacy Acts (FOIPA) request, the FBI FOIPA Addendum provides information applicable to your request. Part 1 of the Addendum includes standard responses that apply to all requests. Part 2 includes standard responses that apply to requests for records about individuals to the extent your request seeks the listed information. Part 3 includes general information about FBI records, searches, and programs.

Part 1: The standard responses below apply to all requests:

- (i) **5 U.S.C. § 552(c).** Congress excluded three categories of law enforcement and national security records from the requirements of the FOIPA [5 U.S.C. § 552(c)]. FBI responses are limited to those records subject to the requirements of the FOIPA. Additional information about the FBI and the FOIPA can be found on the www.fbi.gov/foia website.
 - (ii) **Intelligence Records.** To the extent your request seeks records of intelligence sources, methods, or activities, the FBI can neither confirm nor deny the existence of records pursuant to FOIA exemptions (b)(1), (b)(3), and as applicable to requests for records about individuals, PA exemption (j)(2) [5 U.S.C. §§ 552/552a (b)(1), (b)(3), and (j)(2)]. The mere acknowledgment of the existence or nonexistence of such records is itself a classified fact protected by FOIA exemption (b)(1) and/or would reveal intelligence sources, methods, or activities protected by exemption (b)(3) [50 USC § 3024(i)(1)]. This is a standard response and should not be read to indicate that any such records do or do not exist.
- Part 2: The standard responses below apply to all requests for records on individuals:**
- (i) **Requests for Records about any Individual—Watch Lists.** The FBI can neither confirm nor deny the existence of any individual's name on a watch list pursuant to FOIA exemption (b)(7)(E) and PA exemption (j)(2) [5 U.S.C. §§ 552/552a (b)(7)(E), (j)(2)]. This is a standard response and should not be read to indicate that watch list records do or do not exist.
 - (ii) **Requests for Records about any Individual—Witness Security Program Records.** The FBI can neither confirm nor deny the existence of records which could identify any participant in the Witness Security Program pursuant to FOIA exemption (b)(3) and PA exemption (j)(2) [5 U.S.C. §§ 552/552a (b)(3), 18 U.S.C. 3521, and (j)(2)]. This is a standard response and should not be read to indicate that such records do or do not exist.
 - (iii) **Requests for Confidential Informant Records.** The FBI can neither confirm nor deny the existence of confidential informant records pursuant to FOIA exemptions (b)(7)(D), (b)(7)(E), and (b)(7)(F) [5 U.S.C. § 552 (b)(7)(D), (b)(7)(E), and (b)(7)(F)] and Privacy Act exemption (j)(2) [5 U.S.C. § 552a (j)(2)]. The mere acknowledgment of the existence or nonexistence of such records would reveal confidential informant identities and information, expose law enforcement techniques, and endanger the life or physical safety of individuals. This is a standard response and should not be read to indicate that such records do or do not exist.

Part 3: General Information:

- (i) **Record Searches and Standard Search Policy.** The Record/Information Dissemination Section (RIDS) searches for reasonably described records by searching systems, such as the Central Records System (CRS), or locations where responsive records would reasonably be found. The CRS is an extensive system of records consisting of applicant, investigative, intelligence, personnel, administrative, and general files compiled by the FBI per its law enforcement, intelligence, and administrative functions. The CRS spans the entire FBI organization, comprising records of FBI Headquarters, FBI Field Offices, and FBI Legal Attaché Offices (Legats) worldwide; Electronic Surveillance (ELSUR) records are included in the CRS. The standard search policy is a search for main entity records in the CRS. Unless specifically requested, a standard search does not include a search for reference entity records, administrative records of previous FOIPA requests, or civil litigation files.
 - a. *Main Entity Records* – created for individuals or non-individuals who are the subjects or the focus of an investigation
 - b. *Reference Entity Records*- created for individuals or non-individuals who are associated with a case but are not known subjects or the focus of an investigation
- (ii) **FBI Records.** Founded in 1908, the FBI carries out a dual law enforcement and national security mission. As part of this dual mission, the FBI creates and maintains records on various subjects; however, the FBI does not maintain records on every person, subject, or entity.
- (iii) **Foreseeable Harm Standard.** As amended in 2016, the Freedom of Information Act provides that a federal agency may withhold responsive records only if: (1) the agency reasonably foresees that disclosure would harm an interest protected by one of the nine exemptions that FOIA enumerates, or (2) disclosure is prohibited by law (5 United States Code, Section 552(a)(8)(A)(i)). The FBI considers this foreseeable harm standard in the processing of its requests.
- (iv) **Requests for Criminal History Records or Rap Sheets.** The Criminal Justice Information Services (CJIS) Division provides Identity History Summary Checks – often referred to as a criminal history record or rap sheet. These criminal history records are not the same as material in an investigative "FBI file." An Identity History Summary Check is a listing of information taken from fingerprint cards and documents submitted to the FBI in connection with arrests, federal employment, naturalization, or military service. For a fee, individuals can request a copy of their Identity History Summary Check. Forms and directions can be accessed at www.fbi.gov/about-us/cjis/identity-history-summary-checks. Additionally, requests can be submitted electronically at www.edo.cjis.gov. For additional information, please contact CJIS directly at (304) 625-5590.

EXPLANATION OF EXEMPTIONS

SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552

- (b)(1) (A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified to such Executive order;
- (b)(2) related solely to the internal personnel rules and practices of an agency;
- (b)(3) specifically exempted from disclosure by statute (other than section 552b of this title), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;
- (b)(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;
- (b)(5) 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;
- (b)(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;
- (b)(7) records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or (F) could reasonably be expected to endanger the life or physical safety of any individual;
- (b)(8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or
- (b)(9) geological and geophysical information and data, including maps, concerning wells.

SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552a

- (d)(5) information compiled in reasonable anticipation of a civil action proceeding;
- (j)(2) material reporting investigative efforts pertaining to the enforcement of criminal law including efforts to prevent, control, or reduce crime or apprehend criminals;
- (k)(1) information which is currently and properly classified pursuant to an Executive order in the interest of the national defense or foreign policy, for example, information involving intelligence sources or methods;
- (k)(2) investigatory material compiled for law enforcement purposes, other than criminal, which did not result in loss of a right, benefit or privilege under Federal programs, or which would identify a source who furnished information pursuant to a promise that his/her identity would be held in confidence;
- (k)(3) material maintained in connection with providing protective services to the President of the United States or any other individual pursuant to the authority of Title 18, United States Code, Section 3056;
- (k)(4) required by statute to be maintained and used solely as statistical records;
- (k)(5) investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment or for access to classified information, the disclosure of which would reveal the identity of the person who furnished information pursuant to a promise that his/her identity would be held in confidence;
- (k)(6) testing or examination material used to determine individual qualifications for appointment or promotion in Federal Government service the release of which would compromise the testing or examination process;
- (k)(7) material used to determine potential for promotion in the armed services, the disclosure of which would reveal the identity of the person who furnished the material pursuant to a promise that his/her identity would be held in confidence.

Exhibit 5



11357 Nucklos Road, #138, Glen Allen, Virginia 23059
info@animalpartisan.org | www.animalpartisan.org

November 2, 2022

Submitted online at EFOIPA

Federal Bureau of Investigation
Attn: Initial Processing Operations Unit
Record/Information Dissemination Section
200 Constitution Drive
Winchester, VA 22602

Dear FOIA Officer,

This is a request under the Freedom of Information Act. 5 U.S.C. § 552, *et seq.* This request is submitted as a follow-up to Request Number 1570974-000, submitted on October 27, 2022, which requested, in relevant part, the following:

- **Any records related the FBI’s involvement in any of the following conferences, including as presenters, consultants, panelists, or attendees:**
 - North American Meat Institute Animal Care and Handling Conference
 - Held at the Westin Kansas City at Crown Center, Kansas City, Missouri 64108 on September 13-14, 2022
 - North American Meat Institute Animal Care and Handling Conference
 - Held virtually on October 12-16, 2020.

On November 2, 2022, the FBI responded to this request and advised that it had “conducted a main entity record search of the Central Records System (CRS) per our standard search policy. However, we were unable to identify records subject to the FOIPA that are responsive to your request.” The response letter further stated “If you have additional information pertaining to the subject of your request, please submit a new request providing the details, and we will conduct an additional search.”

On information and belief, we assert that FBI Special Agent Chris Ford attended and participated in the October 12-16, 2020 North American Meat Institute Animal Care and Handling Conference. Based on this, we renew our original request with the addition of this “additional information.” We request that you search your records based on this new information and respond accordingly.

Under FOIA, agencies must release information unless it is specifically exempt from disclosure.¹ The law also requires that agencies release all reasonably segregable nonexempt portions of documents (i.e., to redact exempt portions of documents and release the rest).²

I request a waiver of all fees associated with this request. These records are not being requested for commercial use and their disclosure is in the public interest as it is likely to contribute significantly to public understanding of the government's involvement in animal agriculture and/or research. Animal Partisan is a Virginia non-stock corporation focused on ending the suffering of animals used in agriculture and research. The organization maintains a public website³ and social media platforms that are used to inform the public of government activities involving animals in agriculture and research. Moreover, Animal Partisan's founder and Legal Counsel has a proven history of using the media to expose the workings of the government through public records.⁴ Should the fee waiver be denied, please notify me before fulfilling this request.

If you have any questions on this request, please contact me at wlowrey@animalpartisan.org or (804) 307-4102. Thank you in advance for your assistance with this matter.



Legal Counsel
Animal Partisan
wlowrey@animalpartisan.org
(804) 307-4102

¹ 5 U.S.C. § 552(a)(8)(i).

² 5 U.S.C. § 552(a)(8)(ii).

³ Home, ANIMAL PARTISAN, www.animalpartisan.org (last visited Oct. 21, 2022).

⁴ See for example M. Bolotnikova, *Amid Bird Flu, Meat Producers Seek "Ventilation Shutdown" for Mass Chicken Killing*, THE INTERCEPT, <https://theintercept.com/2022/04/14/killing-chickens-bird-flu-vs/> (last visited Oct. 21, 2022); A. Lacey, *Monkeys being used for opioid research at YCU, graduate calls for transparency*, WRIC, <https://www.wric.com/news/taking-action/monkeys-being-used-for-opioid-research-at-vcu-graduate-calls-for-transparency/> (last visited Oct. 21, 2022).

Exhibit 6



U.S. Department of Justice

Federal Bureau of Investigation
Washington, D.C. 20535

November 8, 2022

MR. WILL LOWREY
NUMBER 138
11357 NUCKOLS ROAD
GLEN ALLEN, VA 23059

FOIPA Request No.: 1570974-001
Subject: North American Meat Institute
Animal Care and Handling Conferences
(October 12-16, 2020 and September 13 to
14, 2022)

Dear Mr. Lowrey:

This acknowledges receipt of your Freedom of Information/Privacy Acts (FOIPA) request to the FBI. Below you will find check boxes and informational paragraphs about your request, as well as specific determinations required by these statutes. Please read each one carefully.

- Your request has been received at FBI Headquarters for processing.
- You submitted your request via the FBI's eFOIPA system.
- Future correspondence about your FOIPA request will be provided in an email link unless the record file type is not supported by the eFOIPA system.
- Correspondence for requests regarding living individuals, or containing audio, video, and high resolution photographs cannot be sent through the eFOIPA system. Future correspondence about your FOIPA request will be delivered through standard mail.
- The subject of your request is currently being processed and documents subject to the FOIPA will be released to you upon completion.
- Release of responsive records subject to the FOIPA will be posted to the FBI's electronic FOIA Library (The Vault), <http://vault.fbi.gov>, and you will be contacted when the release is posted.
- Your request for a public interest fee waiver is under consideration and you will be advised of the decision if fees are applicable. If your fee waiver is not granted, you will be responsible for applicable fees per your designated requester fee category below.
- For the purpose of assessing any fees, we have determined:
 - As a commercial use requester, you will be charged applicable search, review, and duplication fees in accordance with 5 USC § 552 (a)(4)(A)(ii)(I).
 - As an educational institution, noncommercial scientific institution or representative of the news media requester, you will be charged applicable duplication fees in accordance with 5 USC § 552 (a)(4)(A)(ii)(II).
 - As a general (all others) requester, you will be charged applicable search and duplication fees in accordance with 5 USC § 552 (a)(4)(A)(ii)(III).

Please check the status of your FOIPA request at www.fbi.gov/foia by clicking on **FOIPA Status** and entering your FOIPA Request Number. Status updates are adjusted weekly. The status of newly assigned requests may not be available until the next weekly update. If the FOIPA has been closed the notice will indicate that appropriate correspondence has been mailed to the address on file.

For questions regarding our determinations, visit the www.fbi.gov/foia website under "Contact Us." The FOIPA Request number listed above has been assigned to your request. Please use this number in all correspondence concerning your request.

If you are not satisfied with the Federal Bureau of Investigation's determination in response to this request, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, 441 G Street, NW, 6th Floor, Washington, D.C. 20530, or you may submit an appeal through OIP's FOIA STAR portal by creating an account following the instructions on OIP's website: <https://www.justice.gov/oip/submit-and-track-request-or-appeal>. Your appeal must be postmarked or electronically transmitted within ninety (90) days of the date of my response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal." Please cite the FOIPA Request Number assigned to your request so it may be easily identified.

You may seek dispute resolution services by emailing the FBI's FOIA Public Liaison at foipaquestions@fbi.gov. The subject heading should clearly state "Dispute Resolution Services." Please also cite the FOIPA Request Number assigned to your request so it may be easily identified. You may also contact the Office of Government Information Services (OGIS). The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Sincerely,



Michael G. Seidel
Section Chief
Record/Information
Dissemination Section
Information Management Division

Exhibit 7



11357 Nucklos Road, #138, Glen Allen, Virginia 23059
info@animalpartisan.org | www.animalpartisan.org

December 1, 2022

Submitted online via FOIA STAR

Bobak Talebian, Director
Office of Information Policy
United States Department of Justice
441 G Street NW, 6th Floor
Washington, D.C. 20530

Dear Director Talebian,

On behalf of Animal Partisan, I submit the following appeal in response to the Federal Bureau of Investigation's ("FBI") denial of two separate requests made pursuant to the Freedom of Information Act, 5 U.S.C. § 552, et al.

I. GROUNDS FOR APPEAL

The present appeal concerns the FBI's denial of multiple requests for public records. These requests and their respective grounds for appeal are discussed individually below.

A. Privacy Exemptions

On October 27, 2022, Animal Partisan submitted a FOIA request¹ to the FBI seeking three categories of records. Of these three requests, only two are relevant here. These two requests, along with the corresponding FBI Request Number, are listed below.

- ***(FBI Request No. 1570967-000) Any records involving communications or interactions between the FBI and any of the following named individuals:***
 - Hannah Thompson-Weeman (Animal Agriculture Alliance)
 - Abby Kornegay (Animal Agriculture Alliance)
 - Brett Johnson (Tyson Foods)
 - Dean Banks (Tyson Foods)
 - Noel White (Tyson Foods)
 - Amy Tu (Tyson Foods)
 - John Tignor (Smithfield Foods)
 - Martin Culbreth (Smithfield Foods)
 - Nicholas White (JBS)

¹ Appendix A.

- Forrest Lucas (Protect the Harvest)
- Dale Ludwig (Protect the Harvest)
- Mindy Patterson (The Cavalry Group)
- Alexander Penalta (The Cavalry Group)
- Mark Patterson (The Cavalry Group)

- **(FBI Request No. 1570969-000) Any emails sent by or received by the following Special Agents that include any of the following words: “agriculture”, “agricultural”, “animal”, “rights”, “activist”, “Tyson”, “JBS”, “Smithfield”, “alliance”, “meat”, “dairy”, “egg”, or “poultry”.**
 - FBI Special Agent Chris Ford (Texas)
 - FBI Special Agent C. Daniel Sturgill (Arkansas)
 - FBI Special Agent Scott Mahloch (Wisconsin)
 - FBI Special Agent Chris Andersen (Utah)

On November 2, 2022, the FBI responded to the above requests in separate letters² that included an identical Glomar denial, stating:

You have requested records on one or more third party individuals. Please be advised the FBI will neither confirm nor deny the existence of such records pursuant to FOIA exemptions (b)(6) and (b)(7)(C), 5U.S.C. §§552(b)(6) and (b)(7)(C). The mere acknowledgement of the existence of FBI records on third party individuals could reasonably be expected to constitute an unwarranted invasion of personal privacy. This is our standard response to such requests and should not be taken to mean that records do, or do not, exist. As a result, your request has been closed.

The FBI’s denial of these two requests was in error. First, FOIA requires that the FBI segregate or redact portions of the records that may be subject to the exemptions rather than categorically deny the entire request. FOIA states:

Any reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt under this subsection. The amount of information deleted, and the exemption under which the deletion is made, shall be indicated on the released portion of the record, unless including that indication would harm an interest protected by the exemption in this subsection under which the deletion is made. If technically feasible, the amount of the information deleted, and the exemption under which the deletion is made, shall be indicated at the place in the record where such deletion is made.³

Thus, the FBI should have provided the requested records and redacted any information subject to privacy concerns such as name or other identifying information.

² Appendix B & C.

³ 5 U.S.C. § 552(b).

Second, the FBI failed to balance its privacy concerns with the public interest in disclosure as required by law.⁴ Federal courts interpreting FOIA have determined that “FOIA’s strong presumption in favor of disclosure *is at its zenith*” when considering the balance between privacy interests and public interest.⁵ The Supreme Court of the United States has held that “unless the invasion of privacy is clearly unwarranted, the public interest in disclosure must prevail.”⁶

Here, there is a strong public interest in the disclosure of these records for purposes of understanding the FBI’s involvement with the animal agriculture industry in investigating animal rights activists. In recent years, stories regarding the FBI’s collaboration with animal agriculture have been widely covered and viewed by thousands of Americans. For example, in 2017, award-winning journalist, Glenn Greenwald, reported on the FBI’s extensive efforts to retrieve two piglets taken from a Smithfield-owned Utah factory farm.⁷ Greenwald’s reporting was published by The Intercept, a news organization whose website is viewed by over 3 million visitors each month.⁸ The FBI’s efforts to retrieve these piglets was widely scrutinized in the recent trial of two animal rights activists; the cross-examination of the FBI agent involved has been viewed thousands of times on YouTube.⁹

In 2021, the Intercept reported on FBI’s coordination with Iowa Select in attempting to use an informant to infiltrate an animal rights organization.¹⁰ The FBI’s involvement in this matter was further covered by the Des Moines Register,¹¹ a news organization with a circulation of 33,000 newspapers and over 150,000 Facebook followers.¹² Even agriculture industry news sources have openly reported on interactions with the FBI.¹³

The FBI’s interactions with the animal agriculture industry in investigating animal rights activists are of significant public interest. Had the FBI properly balanced its privacy concerns with the public interest in disclosure, it would have released the requested records. Its failure to do so was in error and we respectfully request that the OIP intervene to remedy the FBI’s flawed decision.

⁴ *Jurewicz v. United States Dep’t of Agric.*, 741 F.3d 1326, 1331 (D.D.C. 2014)

⁵ *Ibid.* (emphasis added).

⁶ *Department of State v. Ray*, 502 U.S. 164, 177 (1991).

⁷ G. Greenwald, *The FBI’s Hunt for Two Missing Piglets Reveals the Federal Cover-Up of Barbaric Factory Farms*, The Intercept, <https://theintercept.com/2017/10/05/factory-farms-fbi-missing-piglets-animal-rights-glenn-greenwald/> (last visited Nov. 30, 2022).

⁸ SIMILARWEB, <https://www.similarweb.com/website/theintercept.com/#ranking> (last visited Dec. 1, 2022).

⁹ “*Does this refresh your memory as to whether eight FBI agents were involved?*”, Direct Action Everywhere, YOUTUBE, <https://www.youtube.com/watch?v=PNpLiEVgW3k> (last visited Nov. 30, 2022).

¹⁰ L. Fang, *After Pork Giant Was Exposed For Cruel Killings, The FBI Pursued Its Critics*, THE INTERCEPT, <https://theintercept.com/2021/02/17/fbi-iowa-select-pigs-whistleblower/> (last visited Nov. 30, 2022).

¹¹ M. Johnson, *Opinion: My arrest and aborted prosecution underlined 3 lies Iowa is propagating about animal agriculture*, DES MOINES REGISTER, <https://www.desmoinesregister.com/story/opinion/columnists/iowa-view/2022/01/23/animal-abuse-vsd-iowa-agriculture-state-tried-silence-me/6631339001/> (last visited Dec. 1, 2022).

¹² Des Moines Register, FACEBOOK, <https://www.facebook.com/DesMoinesRegister> (last visited Dec. 1, 2022).

¹³ *Livestock Farmers Should Note the Possibility of Increased Activist Activity*, OHIO COUNTRY JOURNAL, <https://ocj.com/2020/06/livestock-farms-should-note-the-possibility-of-increased-activist-activity/> (last visited Dec. 1, 2022); *Catfishing*, CYBERAG, <https://cyberag.org/2022/01/catfishing/> (last visited Dec. 1, 2022).

B. Investigative File Exemption

In addition to the two requests cited above, Animal Partisan’s October 27, 2022 FOIA letter included the following request which was also denied in error:

- **(FBI Request No: 1570974-001) Any records related the FBI’s involvement in any of the following conferences, including as presenters, consultants, panelists, or attendees:**
 - North American Meat Institute Animal Care and Handling Conference
 - Held at the Westin Kansas City at Crown Center, Kansas City, Missouri 64108 on September 13-14, 2022
 - North American Meat Institute Animal Care and Handling Conference
 - Held virtually on October 12-16, 2020.

On November 2, 2022, the FBI responded to this request¹⁴ and advised that it was “unable to identify records subject to the FOIPA that are responsive to your request.” That same day, Animal Partisan submitted another FOIA request¹⁵ and advised that on its information and belief, FBI Special Agent Chris Ford had attended and participated in the October 12-16, 2020 North American Meat Institute Animal Care and Handling Conference. Based on this information, Animal Partisan asserted that the FBI’s conclusion that no responsive records existed was in error.

On November 15, 2022, the FBI responded¹⁶ and backtracked on its original November 2 conclusion that no records existed, but instead denied the request based on an exemption. The denial read:

The FBI has completed its search for records subject to the FOIPA that are responsive to your request. The material you requested is located in an investigative file which is exempt from disclosure pursuant to 5 U.S.C. § 552(b)(7)(A).¹⁷

This denial is in error for several reasons. First, as stated in Section I(A), the FBI is obligated under 5 U.S.C. § 552(b) to redact any exempted material and provide the remainder. Under FOIA:

[a]n investigatory record must meet two criteria to fall within FOIA exemption 7(A): first, it must be compiled for law enforcement purposes, and second, its release must interfere with enforcement proceedings. The government has the burden of demonstrating that the exemption applies.¹⁸

¹⁴ Appendix D.

¹⁵ Appendix E.

¹⁶ Appendix F.

¹⁷ Appendix F

¹⁸ *Bevis v. Department of State*, 801 F.2d 1386, 1388 (D.C. Cir. 1986) (internal citations omitted).

Further, the exemption only applies to “concrete prospective law enforcement proceedings”¹⁹ that must “focus directly on specifically alleged illegal acts, illegal acts of particular identified officials, acts which could, if proved, result in civil or criminal sanctions.”²⁰

Here, the FBI could have redacted any information that interfered with a “concrete prospective law enforcement proceeding” and provided the remainder, much of which Animal Partisan believes was generalized information presented to the conference and not specific to any proceeding in particular.

Second, the request seeks—in part—information Animal Partisan believes was presented by Special Agent Ford to hundreds of attendees at the North American Meat Institute Animal Care and Handling Conference. Thus, the information has already been made public and is therefore not subject to the exemption as held by the District Court for the District of Columbia.²¹

The FBI erred by withholding this information. We urge the OIP to correct the FBI’s error and order the agency to provide the requested records.

II. CONCLUSION

As explained above, the FBI’s denial of these requests was in error. The FBI failed to redact or segregate information as required by FOIA and misinterpreted several exemptions. The OIP should intervene to remedy the FBI’s errors and order the agency to comply with FOIA in fulfilling Animal Partisan’s requests.

We appreciate your attention to this important matter and look forward to your response. Please contact me at wlowrey@animalpartisan.org or (804) 307-4102.

Sincerely,



Will Lowrey
Legal Counsel
Animal Partisan
wlowrey@animalpartisan.org
(804) 307-4102

¹⁹ *Carson v. U. S. Dep’t of Justice*, 631 F.2d 1008, 1018 (D.C. Cir. 1980); *see also Scheer v. DOJ*, 35 F. Supp. 2d 9, 12 (D.D.C. 1999).

²⁰ *Rural Housing Alliance v. United States Dep’t of Agriculture*, 498 F.2d 73, 81 (D.D.C. 1974).

²¹ *UtahAmerican Energy, Inc. v. United States Dep’t of Labor*, 700 F. Supp. 2d 99, 108 (D.D.C. 2010).

Exhibit 8



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

Telephone: (202) 514-3642

January 30, 2023

Will Lowrey, Esq.
Animal Partisan

Re: Appeal No. A-2023-00357
Request No. 1570974-001
DRC: EAH

wlowrey@animalpartisan.org

VIA: Online Portal

Dear Will Lowrey:

You appealed from the action of the Federal Bureau of Investigation on your Freedom of Information Act request for access to records concerning the FBI's involvement in specific conferences. I note that your appeal concerns the FBI's denial under 5 U.S.C. § 552(b)(7)(A).

After carefully considering your appeal, I am affirming the FBI's action on your request. The FOIA provides for disclosure of many agency records. At the same time, Congress included in the FOIA nine exemptions from disclosure that provide protection for important interests such as personal privacy, privileged communications, and certain law enforcement activities.

The FBI properly withheld this information in full because it is protected from disclosure under the FOIA pursuant to 5 U.S.C. § 552(b)(7)(A) and it is reasonably foreseeable that disclosure of this information would harm the interests protected by this provision. This provision concerns records or information compiled for law enforcement purposes the release of which could reasonably be expected to interfere with enforcement proceedings.

Please be advised that this Office's decision was made only after a full review of this matter. Your appeal was assigned to an attorney with this Office who thoroughly reviewed and analyzed your appeal, your underlying request, and the action of the FBI in response to your request.

If you are dissatisfied with my action on your appeal, the FOIA permits you to file a lawsuit in federal district court in accordance with 5 U.S.C. § 552(a)(4)(B).

For your information, the Office of Government Information Services offers mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, Maryland 20740-6001; email at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769. If you have any questions regarding the action this Office has taken on your appeal, you may contact this Office's FOIA Public Liaison for your appeal. Specifically, you may speak with the undersigned agency official by calling (202) 514-3642.

Sincerely,

X *Daniel Castellano*

Daniel Castellano,
Associate Chief, for Matthew W. Hurd, Chief,
Administrative Appeals Staff