

**OFFICIAL CORRESPONDENCE SENT VIA EMAIL NO HARD COPY TO FOLLOW**

NATIONAL PARK SERVICE  
Golden Gate National Recreation Area  
Interior Region 10  
Building 201, Fort Mason  
San Francisco, CA 94123-0022

IN REPLY REFER TO:  
9.C. (SF-PC)  
NPS-2019-01625

May 28, 2020

Mr. Christopher Carr  
Baker Botts LLP  
Via Email: [chris.carr@bakerbotts.com](mailto:chris.carr@bakerbotts.com)  
101 California Street, Suite 3600  
San Francisco, California 94111

Dear Mr. Carr:

This is our final response to your Freedom of Information Act (FOIA) request dated September 10, 2019 and received by the National Park Service (NPS) on September 13, 2019. The FOIA case was assigned to Golden Gate National Recreation Area on September 19, 2019. The Department of Interior (DOI) tracking number for this request is **NPS-2019-01625**. Please cite this tracking number in any future communications with our office regarding your request.

***Your request stated the following:***

*"We request the following from January 20, 2017 to the present:*

- All records concerning the definition of "Commercial Dog Walking" as set forth in the 2019 Superintendent's Compendium of Designations, Closures, Permit Requirements and Other Restrictions Imposed Under Discretionary Authority" for the Golden Gate National Recreation Area (hereinafter "2019 Compendium") at page 3.*
- All records concerning the definition of "Managed Dog" as set forth in the 2019 Compendium at page 4.*
- All records concerning the definition of "Unmanaged Dog" as set forth in the 2019 Compendium at page 4.*
- All records concerning the definition of "Voice Control" as set forth in the 2019 Compendium at page 4.*
- All records concerning "Dog Licensing Requirements" as set forth in the 2019 Compendium at page 15.*
- All records concerning "Voice Control Dog Walking" as set forth in the 2019 Compendium at pages 15-16.*
- All records concerning "Leash Possession Required in Voice Control Areas" as set forth in the 2019 Compendium at page 16.*
- All records concerning "36 CFR § 2.15 - PETS" as set forth in the 2019 Compendium at pages 23-26.*

- *All records concerning "(d) Dogs - Crissy Field and Ocean Beach Snowy Plover Areas" as set forth in the 2019 Compendium at pages 37.*
- *All records concerning "Categorical Exclusion Citation" as set forth in the "Compliance Public Advisory" (dated 8/30/2019) for the 2019 Compendium.*
- *All records concerning "CE Justification" as set forth in the "Compliance Public Advisory" (dated 8/30/2019) for the 2019 Compendium.*
- *All records concerning Item #17 as set forth in the "Compendium Table of Changes for 2019 Update" (dated 8/30/2019) for the 2019 Compendium.*
- *All records concerning Item #18 as set forth in the "Compendium Table of Changes for 2019 Update" (dated 8/30/2019) for the 2019 Compendium.*
- *All records concerning Item #19 as set forth in the "Compendium Table of Changes for 2019 Update" (dated 8/30/2019) for the 2019 Compendium.*
- *All records concerning Item #20 as set forth in the "Compendium Table of Changes for 2019 Update" (dated 8/30/2019) for the 2019 Compendium.*
- *All records concerning Item #21 as set forth in the "Compendium Table of Changes for 2019 Update" (dated 8/30/2019) for the 2019 Compendium.*
- *All records concerning Item #22 as set forth in the "Compendium Table of Changes for 2019 Update" (dated 8/30/2019) for the 2019 Compendium.*
- *All Records concerning Exhibits 22-39 inclusive for the 2019 Compendium."*

We consider "the present" in your request to mean September 30, 2019, the date of the initial message in which we first asked staff to survey their records for possibly responsive records.

Golden Gate National Recreation Area staff have completed their search and review of all responsive records. The NPS Interior Regions 8, 9, 10 & 12, Regional Director has delegated authority to park management for this specific FOIA request. This delegation includes authority to approve redactions (after review and approval by Solicitor), to release responsive records, and to close this FOIA matter. Park staff have consulted with the Solicitor throughout this process.

In this final response, we have attached a total of 678 pages. Of the 678 pages we have released, we have redacted parts of approximately 219 pages under Exemptions 5 or 6. We plan to post the records to our online FOIA Reading Room under 2019 Compendium (FOIA #NPS-2019-01625) at: <https://www.nps.gov/goga/learn/management/foia-reading.htm>.

There are a approximately 107 pages with partial redactions under Exemption 5 and 112 pages with partial redactions under Exemption 6. Note that some pages contain redactions for both Exemption 5 and 6. See explanations of the exemptions below.

#### Exemption 5

Exemption 5 allows an agency to withhold "inter-agency or intra-agency memorandums or letters which would not be available by law to a party... in litigation with the agency." *See* 5 U.S.C. § 552(b)(5). Exemption 5 therefore incorporates the privileges that protect materials from discovery in litigation, including the deliberative process, attorney work-product, attorney-client, and commercial information privileges.

The deliberative process privilege protects the decision-making process of government agencies and encourages the frank exchange of ideas on legal or policy matters by ensuring agencies are not forced to operate in a fish bowl. A number of policy purposes have been attributed to the deliberative process privilege, such as: (1) assuring that subordinates will feel free to provide the decisionmaker with their

uninhibited opinions and recommendations; (2) protecting against premature disclosure of proposed policies; and (3) protecting against confusing the issues and misleading the public.

The deliberative process privilege protects materials that are both predecisional and deliberative. The privilege covers records that reflect the give-and-take of the consultative process and may include recommendations, draft documents, proposals, suggestions, and other subjective documents which reflect the personal opinions of the writer rather than the policy of the agency.

The materials that have been withheld under the deliberative process privilege of Exemption 5 are both predecisional and deliberative. They do not contain or represent formal or informal agency policies or decisions. They are the result of frank and open discussions among employees of the Department of the Interior. Their contents have been held confidential by all parties and public dissemination of this information would have a chilling effect on the agency's deliberative processes. Disclosure would expose the agency's decision-making process in such a way as to discourage candid discussion within the agency, and thereby undermine the agency's ability to perform its mandated functions.

"The attorney-client privilege protects confidential communications between an attorney and his/her client relating to a legal matter for which the client has sought professional advice and is not limited to the context of litigation. Moreover, although it fundamentally applies to confidential facts divulged by a client to his/her attorney, this privilege also encompasses any opinions given by an attorney to his/her client based upon, and thus reflecting, those facts, as well as communications between attorneys that reflect confidential client-supplied information.

The information that has been withheld under the attorney-client privilege of Exemption 5 constitutes confidential communications between Federal attorneys and agency clients, related to legal matters for which the client sought professional legal assistance and services. It also encompasses opinions given by attorneys to their clients based on client-supplied facts. Additionally, the NPS employees who communicated with the attorneys regarding this information were clients of the attorneys at the time the information was generated and the attorneys were acting in their capacities as lawyers at the time they communicated legal advice. Finally, the NPS has held this information confidential and has not waived the attorney-client privilege.

When the government enters the marketplace as an ordinary commercial buyer or seller, the government's information is protected under the commercial information privilege if it is sensitive information not otherwise available, and disclosure would significantly harm the government's monetary functions or commercial interests. We have redacted parts of one page under the commercial information privilege. A conference call telephone number and passcode has been redacted to prevent the unauthorized use and potential monetary loss to the government.

#### Exemption 6

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." *See* 5 U.S.C. § 552(b)(6).

The phrase "similar files" covers any agency records containing information about a particular individual that can be identified as applying to that individual. To determine whether releasing records containing information about a particular individual would constitute a clearly unwarranted invasion of personal privacy, we are required to balance the privacy interest that would be affected by disclosure against any public interest in the information.

Under the FOIA, “the only relevant public interest” to consider under the exemption is “the extent to which the information sought would ‘shed light on an agency’s performance of its statutory duties’ or otherwise let citizens ‘know what their government is up to.’” The burden is on the requester to establish that disclosure would serve the public interest. 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 would be the greater result of disclosure: the harm to personal privacy or the benefit to the public. The purposes for which the request for information is made do not impact this balancing test, as a release of information requested under the FOIA constitutes a release to the general public.

The information that has been withheld under Exemption 6 consists of personal information such as names, personal cell phone numbers, addresses, email addresses and medical conditions. We have determined that the individuals to whom this information pertains have a substantial privacy interest in withholding it. Additionally, you have not provided information that explains a relevant public interest under the FOIA in the disclosure of this personal information and we have determined that the disclosure of this information would shed little or no light on the performance of the agency’s statutory duties. Because the harm to personal privacy is greater than whatever public interest may be served by disclosure, release of the information would constitute a clearly unwarranted invasion of the privacy of these individuals.

Deborah S. Bardwick, DOI Assistant Field Solicitor, Office of the Solicitor was consulted on all withholdings.

We reasonably foresee that disclosure would harm an interest protected by one or more of the nine exemptions of the FOIA’s general rule of disclosure.

We have classified you as an “other-use” requester. You have asked us to waive the fees for processing your request. Our FOIA regulations state that bureaus will waive, or partially waive, fees if disclosure of all or part of the information is: (1) In the public interest because it is likely to contribute significantly to public understanding of government operations or activities, and (2) Not primarily in your commercial interest. Your fee waiver is granted.

You may appeal this response to the Department’s FOIA/Privacy Act Appeals Officer. If you choose to appeal, the FOIA/Privacy Act Appeals Officer must receive your FOIA appeal **no later than 90 workdays** from the date of this letter. Appeals arriving or delivered after 5:00 p.m. Eastern Time, Monday through Friday, will be deemed received on the next workday.

**Your appeal must be made in writing.** You may submit your appeal and accompanying materials to the FOIA/Privacy Act Appeals Officer by mail, courier service, fax, or email. All communications concerning your appeal should be clearly marked with the words: "FREEDOM OF INFORMATION APPEAL." You must include an explanation of why you believe the NPS response is in error. You must also include with your appeal copies of all correspondence between you and the NPS concerning your FOIA request, including your original FOIA request and the NPS response. Failure to include with your appeal all correspondence between you and the NPS will result in the Department's rejection of your appeal, unless the FOIA/Privacy Act Appeals Officer determines (in the FOIA/Privacy Act Appeals Officer’s sole discretion) that good cause exists to accept the defective appeal.

Please include your name and daytime telephone number (or the name and telephone number of an appropriate contact), email address and fax number (if available) in case the FOIA/Privacy Act Appeals Officer needs additional information or clarification of your appeal.

*DOI FOIA/Privacy Act Appeals Office Contact Information*

Department of the Interior  
Office of the Solicitor  
1849 C Street, N.W.  
MS-6556 MIB  
Washington, DC 20240  
Attn: FOIA/Privacy Act Appeals Office

Telephone: (202) 208-5339  
Fax: (202) 208-6677  
Email: [FOIA.Appeals@sol.doi.gov](mailto:FOIA.Appeals@sol.doi.gov)

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of FOIA. See [5 U.S.C. §552\(c\)](#). This response is limited to those records that are subject to the requirements of 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.

The 2007 FOIA amendments created the Office of Government Information Services (OGIS) to offer 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. You may contact OGIS in any of the following ways:

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


E-mail: [ogis@nara.gov](mailto:ogis@nara.gov)  
Web: <https://ogis.archives.gov>  
Telephone: (202) 741-5770  
Fax: (202) 741-5769  
Toll-free: (877) 684-6448

Please note that using OGIS services does not affect the timing of filing an appeal with the Department's FOIA & Privacy Act Appeals Officer.

If you have any questions about our response to your request, you may contact Laura Elze, Public Affairs Specialist, by phone at 415-561-4734 or email [GOGA\\_FOIA@nps.gov](mailto:GOGA_FOIA@nps.gov), or by mail at Golden Gate National Recreation Area, 201 Fort Mason, San Francisco, CA 94123.

Contact information for the Department's FOIA Public Liaison, who you may also seek dispute resolution services from, is available at <https://www.doi.gov/foia/foiacenters>.

Sincerely,

 Digitally signed by  
LAURA JOSS  
Date: 2020.05.28  
10:39:00 -07'00'

Laura E. Joss  
General Superintendent  
Golden Gate National Recreation Area  
Muir Woods National Monument  
Fort Point National Historic Site  
National Park Service, Department of the Interior Region 10

Attachments

cc: Charles Strickfaden, Chief, Communications, External Affairs, Special Park Uses

cc: Stan Austin, Regional Director, National Park Service, Interior Regions 8, 9, 10, and 12

cc: Amanda Kaplan, Chief of Public and Congressional Affairs, National Park Service, Interior Regions 8, 9, 10, and 12

cc: Nancy Hori, Regional FOIA Officer, National Park Service, Interior Regions 8, 9, 10, and 12

**3 attachments**

<b>Name</b>	<b>Size</b>
NPS-2019-01625 Final Response Letter Carr from Joss.pdf	168 KB
NPS-2019-01625 Carr Final Full Release.pdf	4366 KB
NPS-2019-01625 Carr Final Redacted Ex5 Ex6.pdf	18035 KB