

ACLU v. DEPARTMENT OF DEFENSE

543 F.3d 59 (2d Cir. 2008)

JOHN GLEESON, *United States District Judge*:

The Department of Defense and Department of the Army appeal from orders directing them to release 21 photographs pursuant to the Freedom of Information Act. The photographs depict abusive treatment of detainees by United States soldiers in Iraq and Afghanistan.

On appeal, the defendants contend that the exemption in § 552(b)(7)(F) for law enforcement records that could reasonably be expected to endanger "any individual" applies here because the release of the disputed photographs will endanger United States troops, other Coalition forces, and civilians in Iraq and Afghanistan. They further claim that disclosure will result in unwarranted invasions of the personal privacy of the detainees they depict, justifying nondisclosure under § 552(b)(6) and (7)(C). [The redactions] ordered by the district court render the privacy exemptions unavailable to the defendants. Accordingly, we affirm.

BACKGROUND

On October 7, 2003, the plaintiffs filed requests pursuant to FOIA seeking records related to the treatment and death of prisoners held in United States custody abroad after September 11, 2001, and records related to the practice of "rendering" those prisoners to countries known to use torture. On June 2, 2004, having received no records in response to the requests, the plaintiffs filed the complaint in this case, alleging that the agencies had failed to comply with the law.

On August 16, 2004, the plaintiffs provided a list of records they claimed were responsive to the FOIA requests. Among the records listed were 87 photographs and other images of detainees at detention facilities in Iraq and Afghanistan, including Abu Ghraib prison. The images from Abu Ghraib depicted United States soldiers engaging in abuse of many detainees. The soldiers forced detainees, often unclothed, to pose in dehumanizing, sexually suggestive ways.

The defendants initially invoked only FOIA exemptions 6 and 7(C) as their ground for withholding the Abu Ghraib photos. Those provisions authorize withholding where disclosure would constitute an "unwarranted invasion of personal privacy." The defendants contended that these personal privacy exemptions warranted the withholding of the Abu Ghraib photos in order to protect the privacy interests of the detainees depicted in them. The plaintiffs argued that redactions could eliminate any unwarranted invasions of privacy.

More than two months after oral argument, the defendants added another justification for withholding the Abu Ghraib photos: exemption 7(F). That exemption authorizes withholding of records "compiled for law enforcement purposes" where disclosure "could reasonably be expected to endanger the life or physical safety of any individual." According to the defendants, release of the Abu Ghraib photos could reasonably be expected to endanger the life or physical safety of United States troops, other Coalition forces, and civilians in Iraq and Afghanistan.

On September 29, 2005 the district court rejected the defendants' arguments and ordered the disclosure of the Abu Ghraib photos. It determined that redaction of "all identifying characteristics of the persons in the photographs" would prevent an invasion of privacy interests. To the extent that an invasion of privacy might occur in spite of the redactions, the court found

that such an invasion would not be "unwarranted" since the public interest involved "far outweighs any speculative invasion of personal privacy."

The district court also rejected the defendants' eleventh-hour argument related to exemption 7(F). The court concluded that "the core values that Exemption 7(F) was designed to protect are not implicated by the release of the [Abu Ghraib] photographs, but . . . the core values of FOIA are very much implicated." While acknowledging the "risk that the enemy will seize upon the publicity of the photographs and seek to use such publicity as a pretext for enlistments and violent acts," the court balanced that risk against the benefits of "education and debate that such publicity will foster," and ordered the photos released in redacted form.

The defendants appealed the Abu Ghraib order, but in March 2006, while the appeal was pending, many of the Abu Ghraib photos were published on the internet by a third party. The appeal was thereafter withdrawn. After the appeal was withdrawn, the defendants confirmed that they were withholding an additional 29 images, based on exemptions 6, 7(C) and 7(F). The 29 photographs were taken in at least seven different locations in Afghanistan and Iraq, and involved a greater number of detainees and U.S. military personnel. And while many of the Abu Ghraib photos depicted unclothed detainees forced to pose in degrading and sexually explicit ways, the detainees in the 29 photographs were clothed and generally not forced to pose. The photographs were part of seven investigative files of the Army's Criminal Investigations Command ("Army CID"), and were provided to Army CID in connection with allegations of mistreatment of detainees. In three of the investigations, Army CID found probable cause to believe detainee abuse had occurred. Soldiers under scrutiny in two of the investigations have been punished under the Uniform Code of Military Justice.

By orders dated June 9, 2006 and June 21, 2006, the district court ordered the release of 21 of the disputed photos, all but one in redacted form. The defendants' appeal of the June 2006 orders is now before us. There is no cross-appeal, and thus neither the order permitting the withholding of eight photographs nor the order directing redactions of the photographs to be disclosed is before us. We refer here to the 21 photographs in dispute as the "Army photos."

DISCUSSION

A. Governing Legal Standards

The Freedom of Information Act requires that "each agency, upon any request for records which (i) reasonably describes such records and (ii) is made in accordance with published rules . . ., shall make the records promptly available to any person" unless the records fall within one of the Act's nine exemptions. The Act is broadly conceived to reflect "a general philosophy of full agency disclosure," and its exemptions are exclusive and "must be narrowly construed."

As FOIA applies government-wide, no agency is entitled to deference in interpreting its provisions. Further, FOIA expressly provides for de novo review of agency decisions to withhold records and places the burden of persuasion on the agency. Doubts, therefore, are to be resolved in favor of disclosure. Our review of the district court's decisions is de novo as well.

B. FOIA Exemption 7(F)

The argument defendants raised as an afterthought below is their lead argument on appeal. They contend that FOIA exemption 7(F) justifies withholding the Army photos. Exemption 7(F)

allows an agency to withhold "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 endanger the life or physical safety of any individual." In relying on this exemption, the defendants contend that (a) the Army photos, which were gathered during Army CID investigations, are documents "compiled for law enforcement purposes;" (b) disclosure of the photos could reasonably be expected to incite violence against United States troops, other Coalition forces, and civilians in Iraq and Afghanistan; and (c) since there is no limit to who is protected by exemption 7(F), withholding is warranted.

The first contention is undisputed. The second and third are disputed, but neither was decided by the district court. Without deciding whether the defendants had satisfied their burden of showing that the Army photos "could reasonably be expected to" result in acts of violence by insurgents, the district court balanced that risk against the "core values" of FOIA and the benefits of disclosure, concluding that disclosure was warranted. The court explicitly declined to resolve the parties' dispute regarding the proper construction of "any individual" in exemption 7(F).

We resolve the latter dispute here, and our resolution disposes of the exemption 7(F) issue. The defendants argue that the plain meaning of the term "any individual" is unlimited, and thus includes individuals identified solely as military and civilian personnel in Iraq and Afghanistan. We disagree. The phrase "any individual" in exemption 7(F) may be flexible, but is not vacuous. Considering, as we must, the words in the statute, the structure of FOIA and its exemption provisions, the chronology of amendments to those provisions, and the requirement that FOIA exemptions be narrowly construed, we cannot read the phrase to include individuals identified solely as members of a group so large that risks which are clearly speculative for any particular individuals become reasonably foreseeable for the group.

1. *The Phrase "Any Individual"*

Exemption 7(F) justifies withholding any law enforcement records that "could reasonably be expected to endanger the life or physical safety of any individual." Do the defendants satisfy their burden of establishing the exemption's applicability if they do not point to any one individual and establish that he or she could reasonably be expected to be endangered, but instead point to a group composed of millions of people and establish that it could reasonably be expected that someone in that group will be endangered?

The plain language of the phrase "endanger the life or physical safety of any individual" connotes a degree of specificity above and beyond that conveyed by alternative phrases such as "endanger life or physical safety." It is true that the statute does not read "any *named* individual," and we thus understand it to include individuals identified in some way other than by name -- such as, for example, being identified as family members or coworkers of a named individual, or some similarly small and specific group. This does not, however, mean that the "individual" contemplated by exemption 7(F) need not be identified at all, or may be identified only as a member of a vast population. To the contrary, the legislature's choice to condition the exemption's availability on danger to an *individual*, rather than danger in general, indicates a requirement that the subject of the danger be identified with at least reasonable specificity.

The defendants emphasize that Congress used the word "any" to modify "individual," and contend that the broad scope of the word "any" relieves them of the burden of identifying, even roughly, an individual. "Any" does *not* always deserve the expansive application the defendants urge here. Rather, a court must construe the term carefully, in light of the statute as a whole as interpreted by accepted principles of construction. To be sure, sometimes the word "any" in a statute deserves an expansive application. However, the Supreme Court has made it clear that such a result must never be the result of a wooden, uncritical capitulation to the word itself. Rather, it occurs where the surrounding statutory language and legislative context support it.

Thus, the defendants' argument that "any individual" in exemption 7(F) must, due solely to the brute force of the word "any," be interpreted to extend its protection to all persons, whether or not they can be identified, no matter how remote they are from the law enforcement investigation in which the disputed records were compiled, and no matter how small the risk to any particular individual, is incorrect. We must examine not only the word "any" but also the language of the remainder of the provision, the structure of FOIA's exemptions, and the context and history leading to its adoption.

We begin with the specific context in which the disputed language is used. It bears emphasis that the Freedom of Information Act was enacted to make agency records available to the public "except as *specifically* stated" in one of the enumerated exemptions. As mentioned above, the Supreme Court has repeatedly cautioned that they "are to be narrowly construed."

This rule of construction is of central importance here. The defendants' construction of "any individual" as not requiring the government to name or even roughly identify any individual, besides gesturing to the populations of two nations and two international expeditionary forces and showing that it could reasonably be expected that at least one person within them will be endangered, is not a narrow one. The reading of "any individual" as requiring a FOIA defendant to identify an individual with reasonable specificity is a narrower construction, and to be preferred on that ground alone.

That interpretation is also inconsistent with the remainder of the text of the statute. To construe the word "any" to relieve the government of the burden of identifying an individual who could reasonably be expected to be endangered would be to read "individual" out of the exemption. In effect, it would convert the phrase "endanger the life or physical safety of any individual" into "endanger life or physical safety." As we construe statutes to avoid surplusage, we cannot ignore the role that the word "individual" plays in exemption 7(F).

While all harms in the end are suffered by individuals, there is a crucial difference between a showing that disclosure "could reasonably be expected to endanger life or physical safety" and exemption 7(F)'s requirement that disclosure "could reasonably be expected to endanger the life or physical safety of any individual." With large enough populations, remote and speculative risks become radically more likely to manifest in at least one person. Reading the word "individual" out of exemption 7(F) allows consideration of such diffuse and speculative risks. But exemption 7(F), by conditioning its application on a reasonable expectation of danger *to an individual*, excludes from consideration risks that are speculative with respect to any individual.

This case shows the significance of Congress's decision to require a showing of danger to an individual. What the defendants argue is that it could reasonably be expected that out of a

population the size of two nations and two international expeditionary forces combined, someone somewhere will be endangered as a result of the release of the Army photos. Thus, we do not consider a case where the defendants have shown exemption 7(F)'s required reasonable expectation of endangerment with respect to one or more individuals, but one where the defendants attempt to cobble together that required reasonable expectation of endangerment by aggregating miniscule and speculative individual risks over a vast group of individuals.

We hold that in order to justify withholding documents under exemption 7(F), an agency must identify at least one individual with reasonable specificity and establish that disclosure of the documents could reasonably be expected to endanger that individual. It is plainly insufficient to claim that releasing documents could reasonably be expected to endanger some unspecified member of a group so vast as to encompass all United States troops, coalition forces, and civilians in Iraq and Afghanistan. The structure of FOIA and the applicable legislative history, both of which contemplate a far narrower role for exemption 7(F) than that envisioned by the defendants, amply confirm our holding.

2. The Structure of FOIA and its Exemptions

Our conclusion as to the breadth of exemption 7(F) is supported by the structure of FOIA's exemptions. The context of the exemption severely undercuts the defendants' claim that Congress tucked such a far-reaching and nebulous authority for withholding into one of the several discrete law enforcement exemptions. The defendants' reading of exemption 7(F) is inconsistent with FOIA's treatment of national security information. FOIA provides a separate exemption specifically tailored to the national security context, which is a powerful reason not to construe exemption 7(F) as broadly as the defendants urge.

FOIA's exemption 1 exempts from disclosure records that are "(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 pursuant to such Executive order." Executive Order 13,292 "prescribes a uniform system for classifying, safeguarding, and declassifying national security information." It also sets forth limits on what may be classified, by what authority, and for how long. First among the limits are prohibitions against classifying information in order to "conceal violations of law, inefficiency, or administrative error" or "prevent embarrassment to a person, organization, or agency."

Although Executive Order 13,292 is not a law, FOIA incorporates its safeguards into exemption 1. Substantially the same safeguards have been in force, and incorporated into FOIA through exemption 1, from 1974 to the present. They are therefore properly considered part of the statutory backdrop against which Congress legislated in 1986 when it changed exemption 7(F) to protect information that "could reasonably be expected to endanger the life or physical safety of any individual."

The existence of separate standards for information threatening harm to national security severely undercuts the defendants' asserted construction of exemption 7(F). It would be anomalous if an agency that could not meet the requirements for classification of national security material could, by characterizing the material as having been compiled for law enforcement purposes, evade the strictures and safeguards of classification and find shelter in

exemption 7(F) simply by asserting that disclosure could reasonably be expected to endanger someone unidentified somewhere in the world.¹ The defendants' standard is far more favorable to secrecy than even the lowest tier of the current classification system. The defendants invite us to convert exemption 7(F) into, in effect, an alternative classification mechanism entirely lacking the executive's safeguards and standards. Such an alternative classification system is inconsistent with the structure of FOIA's exemptions.

Thus, the structure of FOIA's exemption provision, with its separate exemptions and different standards for national security matters and for law enforcement matters, counsels in favor of the narrower construction of 7(F) that we adopt here.

3. The Legislative History of Exemption 7(F)

An examination of the legislative history and background surrounding the adoption of the current form of exemption 7(F) confirms that the exemption simply does not function as a far broader alternative to the national security classification system. Congress has always envisioned exemption 7(F) as a shield against specific threats to particular individuals arising out of law enforcement investigations, never as a means of suppressing worldwide political violence.

Originally, exemption 7 allowed the withholding of "investigatory files compiled for law enforcement purposes except to the extent available by law to a party other than an agency." The 1974 amendments responded to concerns that the opportunity to exempt law enforcement "files" created an incentive among agencies "to commingle various information into one enormous investigatory file. So Congress replaced the word "files" in exemption 7 with the word "records," and replaced the broad language of exemption 7, which had covered all investigatory files except to the extent they were already made available by law, with six specific subprovisions. The amended exemption required agencies to demonstrate that each withheld investigatory record fit into one of the six subprovisions. Most significantly for the purposes of this case, the subprovisions authorized the withholding of records that would (1) disclose the identity of a confidential source (or, with respect to criminal law enforcement or national security records, disclose confidential information provided solely by such a source), or (2) endanger the life or physical safety of "law enforcement personnel."

The 1974 amendments were intended to reinvigorate FOIA. By eliminating the ability of an agency to place entire law enforcement files out of the public's reach, and then narrowing the withholding authority to the six specified categories of records, they accomplished that goal. But in doing so, the amendments created some problems. Records identifying a confidential source could be withheld, as could records that would endanger law enforcement personnel. But what

¹ The defendants have not explained whether the Army photos may be properly classified, and thereby rendered exempt from disclosure, or why that has not occurred. Their failure to invoke exemption 1 would not foreclose their resort to exemption 7(F) if it applied, but the existence of the separate national security exemption undercuts their argument that exemption 7(F) encompasses information solely because of the national security harm it threatens.

about records that could endanger the families of such persons, or persons assisting law enforcement who are neither confidential sources nor government employees?

As the war on drugs and organized crime escalated in the early 1980s, those areas of law enforcement activity "constitute[d] a special problem under FOIA" and the fact that exemption 7(F)'s protections were limited to "law enforcement personnel" was central to this special problem. In response, Congress again amended FOIA. Senator Hatch, who authored the changes with Senator Leahy, noted during Congressional debate that "reports studying the impact of FOIA have concluded that the act has harmed the ability of law enforcement officers to enlist informants and carry out confidential investigations." Instead of being used by members of the public to learn of official conduct, FOIA was being "used by lawbreakers to evade criminal investigation or retaliate against informants."

The 1986 amendments to exemption 7 reflect the lawmakers' desire to limit the ability of drug traffickers and other lawbreakers to use FOIA to enhance their organized criminal activity. Among the enacted changes was the substitution of the words "could reasonably be expected to" for "would" in exemptions 7(A), 7(C), 7(D), and 7(F). Exemption 7(D) was amended to clarify and expand what agencies should understand the term "confidential source" to include. Exemption 7(E) was expanded to allow agencies to withhold information that would disclose law enforcement guidelines if disclosure "could reasonably be expected to risk circumvention of the law." Finally, exemption 7(F)'s authorization to withhold records to protect "law enforcement personnel" was expanded to allow withholding where release of the records in question "could reasonably be expected to endanger the life or physical safety of any individual."

The defendants contend on this appeal that the 1986 amendment to exemption 7(F) altered it fundamentally, transforming it from a shield against specific risks incident to law enforcement investigations into a diffuse and nebulous authority for keeping inflammatory information secret. As an initial matter, we note that the government had a different view at the time. More importantly, the defendants' argument for an expansive interpretation of the phrase "any individual" misapprehends the special problem the 1986 amendment was enacted to correct. Congress was concerned that criminals might deter or hinder law enforcement investigations by identifying those involved in such investigations and targeting the involved parties or associates or relatives to those parties. Accordingly, it relaxed the category of covered persons, extending its protection to individuals who were not themselves law enforcement personnel but who faced similarly specific threats of violence. What it did not do, and what the legislative history makes clear it never contemplated doing, was to reinvent exemption 7(F) as an all-purpose damper on global controversy. By requiring a showing of danger to an individual, Congress provided a constraint limiting exemption 7(F) to its intended scope -- the protection of individuals subject to a non-speculative risk of harm incident to a law enforcement investigation. The defendants' attempt to sweep far-reaching and speculative national security concerns into exemption 7(F) reaches far beyond the intent of Congress in enacting or amending the provision.

4. Subsequent Application of Exemption 7(F)

Most courts that have upheld the government's reliance on exemption 7(F) have done so where the challenged nondisclosure sought to protect government agents, witnesses, informants, and others who have participated in law enforcement investigations or proceedings. The

defendants cite a handful of district court decisions in support of their expansive construction of the phrase "any individual" in the exemption. These cases are neither controlling nor persuasive.

We agree with the defendants that once exemption 7(F) is deemed applicable and the requisite risk of harm is demonstrated, the exemption does not call for or even permit a balancing of that risk against the public's interest. But the interest of the public in "greater access to information" must be considered in determining the scope of exemption 7(F) in the first place.

Virtually every court having occasion to interpret exemption 7(F) has been called upon to determine whether the disclosure of law enforcement records could reasonably be expected to endanger the life or physical safety of any individuals who participated in some way in the investigation, be they law enforcement employees, informants, or witnesses, or others associated in some way with those persons. Significantly, the defendants themselves first invoked exemption 7(F) in precisely this way. Their initial resort to the exemption in the district court sought to protect only "the identities of citizens of Iraq or Afghanistan who may have cooperated with [Army] CID or other U.S. forces." It was only after oral argument that they dramatically expanded their application, converting a law enforcement matter into a national security issue.

Although this is one of the first cases to examine whether exemption 7(F) can be conscripted into service as an ersatz classification system, it is unlikely to be the last. The defendants' reassurances that their rule would be "[l]imited to the [f]acts [p]resented by [t]his [c]ase" ring hollow. An expert could in good faith claim that it is reasonable to expect that disclosure of any number of documents could endanger the life or physical safety of at least one person in the world. The government's contention that "any individual" encompasses a person identified only as belonging to of a population of national size would, if accepted, circumvent the limitation imposed by the phrase "could reasonably be expected to endanger." It would radically transform exemption 7(F) from a flexible but tailored protection for a fluid but limited class of persons into an alternative secrecy mechanism far broader than the government's classification system. We decline to so transfigure exemption 7(F).

C. FOIA Exemptions 6 and 7(C)

FOIA exemptions 6 and 7(C) protect against disclosure that implicates personal privacy interests. The government may withhold records in "personnel and medical files and similar files" only when their release "would constitute a clearly unwarranted invasion of personal privacy." However, when law enforcement records are involved, the government may withhold records that "could reasonably be expected to constitute an unwarranted invasion of personal privacy." Since the Army photos are considered law enforcement records for the purposes of exemption 7, and are also part of personnel files of the soldiers depicted in the photographs, they are eligible for withholding if the defendants satisfy the standards of either exemption.

Exemption 7(C) is more protective of privacy than exemption 6 because it does not require an invasion of privacy to be *clearly* unwarranted before withholding is allowed, and it may take effect not only when an invasion of privacy "would" occur, but when it could reasonably be expected to occur. Because exemption 7(C) offers broader protection than exemption 6 -- and a lower evidentiary standard for the defendants -- a decision that exemption 7(C) does not allow

withholding also forecloses the defendants' reliance on exemption 6. We turn, then, to an examination of exemption 7(C).

1. *The Detainees' Privacy Interest*

In the FOIA context, the Supreme Court has recognized an individual privacy interest in "avoiding disclosure of personal matters." "[O]nce a more than *de minimis* privacy interest is implicated the competing interests at stake must be balanced in order to decide whether disclosure is permitted under FOIA." Disclosure of personal information "constitutes only a *de minimis* invasion of privacy" when identities are unknown.

Applying these principles to the privacy interests of the detainees in the Army photos, the district court determined that publication of the photos in a form in which "all identifying characteristics of the persons in the photographs have been redacted" would not cause a cognizable invasion of personal privacy. Where "individual recognition could not be prevented without redaction so extensive as to render the images meaningless," the court ordered those photographs to be withheld. The court dismissed as speculative the risk that persons depicted in the photographs might recognize themselves or be recognized by members of the public in spite of the redactions.

The defendants now argue that the redactions approved by the district court are inadequate to protect the privacy interests of the detainees. According to the defendants, when combined with information contained in the investigative reports associated with the detainee images, release of the photographs could make it possible to identify the detainees. The defendants emphasize that (a) "Congress and the courts have recognized that victims of crimes or mistreatment, such as the detainees in this case, should not be forced to relive their suffering and humiliation as a result of Government disclosures" [and] (b) the Supreme Court has recognized a strong privacy interest in "sensitive personal information."²

FOIA provides that "[t]o the extent required to prevent a clearly unwarranted invasion of personal privacy, an agency may delete identifying details." FOIA further states that "[a]ny 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." Accordingly, courts have found redaction of identifying information adequate to prevent infringement of the significant interests that FOIA's privacy exemptions were designed to protect.

In this case, the district court held in camera proceedings to ensure the adequacy of proposed redactions to the Army photos. At no point while viewing the Army photos did the district court note the possibility that a detainee could be identified in spite of the redactions. Having inspected the photographs and the redactions ourselves, we have no doubt that the district court

² The defendants have not relied on any privacy interest of the soldiers depicted in the Army photos, and we do not address that issue here. The district court considered the privacy rights of the soldiers during the redaction hearing, and found that where they appeared to pose for photographs, their consent removed any privacy interest that might otherwise have warranted redaction of their identifying features.

examined the Army photos with an aim to redact "all identifying characteristics of the persons in the photographs," and that it did so adequately.

The defendants' attention to the privacy rights of crime victims and to the concerns associated with personal information does not alter the above analysis. Such a privacy right attaches when information that is sensitive may be linked to certain individuals, not when the individuals involved are unknown.

For example, in *Favish*, the Supreme Court applied exemption 7(C) to allow the withholding of photographs of the death-scene of Vincent Foster. Implicit in the Court's discussion of the privacy rights of members of Foster's family was that the images depict an individual whose identity was widely known to the public. The privacy right attached to Foster's family members "to secure their own refuge from a sensation-seeking culture for their own peace of mind and tranquility." If Foster's identity were unknown, such a privacy interest would not arise.

Notwithstanding the defendants' assertions that redactions of the Army photos do not eliminate the possibility that the detainees in the photographs might be identified (even if only by themselves), we find the district court's redactions of identifying features sufficient to warrant the conclusion that the photographs do not implicate the detainees' privacy interests pursuant to FOIA exemption 7(C).

Even though we are not compelled to balance interests where there is no more than a *de minimis* privacy interest at stake, we note that contrary to the defendants' suggestion there is a significant public interest in the disclosure of these photographs. The defendants concede that these photographs yield evidence of governmental wrongdoing, but nonetheless argue that they add little additional value to the written summaries of the depicted events, which have already been made public. This contention disregards FOIA's central purpose of furthering governmental accountability, and the special importance the law accords to information revealing official misconduct. Governmental misconduct is conceded here, and we accordingly note that the public interest in disclosure of these photographs is strong. In any event, there is no more than a *de minimis* privacy interest in withholding the redacted photographs.

CONCLUSION

As stated above, the defendants have failed to identify an individual who could reasonably be expected to be endangered within the meaning of exemption 7(F). The district court's redactions are sufficient to render inapplicable exemptions 6 and 7(C). Accordingly, we affirm.