

Exhibit 3



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Dear Counsel,

We write in response to your July 22, 2026, letter and our corresponding meet and confer. To be clear, the deliberative process privilege and any other relevant privilege will be raised in response to deposition questions as they are presented. In an effort to narrow our privilege disputes we explain below.

The deliberative process privilege “covers documents reflecting advisory opinions, recommendations, and deliberations that are part of a process by which Government decisions and policies are formulated.” *Dep’t of Interior v. Klamath Water Users Protective Ass’n*, 532 U.S. 1, 2 (2001). It is not limited solely to tangible materials. *Id.*; *Citizens Union v. Att’y Gen. of New York*, 269 F. Supp. 3d 124, 157 (S.D.N.Y. 2017) (“[W]ork product, opinions, and recommendations of staff are part of the deliberative process.” (citation omitted)).

The Governor graciously and fully cooperated in the discovery process by producing all material-and-relevant documents to Plaintiffs’ discovery requests, but that does *not* waive the deliberative process privilege as it relates to depositions. *See In re Sealed Case*, 121 F.3d 729, 741 (D.C. Cir. 1997). Communications and discussions reflecting the give-and-take consultative process are still protected by the privilege. *Citizens Union*, 269 F. Supp. 3d at 160 (explaining that *communications* which were pre-decisional and deliberative were protected). And the higher Plaintiffs’ deposition questions go, the more applicable the deliberative process privilege becomes—“the most senior executive branch officials . . . may require greater deference.” *Karnoski v. Trump*, 926 F.3d 1180, 1206, 1208 (vacating the district court’s discovery order that had improperly concluded that the deliberative process privilege did not apply to presidential communications).

In sum, so long as communications are pre-decisional and deliberative, then those communications are protected by the deliberative process privilege. The privilege applies to the decision-making process “as a whole.” *Moye, O’Brien, O’Rourke, Hogan, & Pickert v. Nat’l R.R. Passenger Corp.*, 376 F.3d 1270, 1279 (11th Cir. 2004).

The privilege is qualified,¹ but, to date, Plaintiffs have principally claimed that the privilege should be overcome because Plaintiffs have concluded that government misconduct is at issue. If, however, “every hint of marginal misconduct sufficed to erase the privilege, the exception would swallow the rule.” *ICM Registry, LLC v. U.S. Dep’t of Com.*, 538 F. Supp. 2d 130, 133 (D.D.C. 2008). Rather than concluding that misconduct occurred, Plaintiffs must show that the privileged communications sought “were so out of bounds that merely discussing them was evidence of a serious breach.” *Id.* “General criticisms of the merits of policy decisions do not amount to evidence of misconduct.” *Hall & Assocs. v. U.S. Env. Prot. Agency*, 14 F. Supp. 3d 1, 9–10 (D.D.C. 2014).

Plaintiffs’ allegations of misconduct surround the Governor’s use of police powers to divert state resources from a terrorist organization. The Governor has the prerogative to divert state resources from *any* organization, let alone terrorist organizations. On its face, the EO does no more than direct state agencies to ensure that state funds do not directly or indirectly benefit terrorist organizations—that is hardly misconduct. Communications that reflect the valid use of executive authority, which are pre-decisional and deliberative, are protected by the deliberative process privilege and are not swallowed by the misconduct exception. As it becomes applicable during any deposition, the deliberative process privilege will be raised.

The deliberative process privilege will be invoked as it becomes applicable for any question raised in connection to topics 3, 5, 6, 8, 10, 13, 14, and 17.

Topic 3: “The deliberative process privilege protects the internal decision-making processes of the [Governor] to safeguard the quality of agency decisions.” *Nadler v. U.S. Dep’t of Justice*, 955 F.2d 1479, 1490 (11th Cir. 1992) *abrogated on other grounds* by *U.S. Dep’t of Justice v. Landano*, 508 U.S. 165 (1993). To the extent that Plaintiffs seek to ask questions about “general process[es]” that would unveil specific

¹ Only “[a] showing of compelling need” may defeat the deliberative process privilege. *In re Sealed Case*, 121 F.3d at 737. Here, there is no compelling need for any further discovery of what is protected by the deliberative process privilege—all material and relevant documents have been disclosed. The probative value of communications behind those documents does not outweigh the need for protecting the candid give-and-take process. *See generally Dairy Power Cooperative v. United States*, 77 Fed. Cl. 330, 338 (Fed. Cl. Ct. 2007) (explaining factors used to balance the need for disclosure with the government’s interest in protecting internal deliberations).

deliberations about this EO, Defendant will not answer those questions. General questions about executive orders are not covered by this objection.

Topic 5: As to information given to third parties, Defendant will not raise the deliberative process privilege. As understood by both parties, following a meet and confer, third parties are those persons or corporations that are not under the control of Defendant, or completely unrelated to the Defendant. For example, communications with a news entity would not be covered by the deliberative process privilege.

Topic 6: Defendant stands on the objection as presented and highlights the sentence, “Defendant objects to subparts (b), (e), and (f) on the same grounds.” Letter to Plaintiffs, July 3, 2026, at 2. Subparts (b), (e), and (f) all could relate to pre-decisional and deliberative communications that would not be reflected in any disclosed document and are, thus, protected. As explained, global waiver rules do not apply to the deliberative process privilege. When asked, a question that points toward this material will be met with an objection.

Topic 8: To the extent that subpart (a) addresses internal deliberations, Defendant will not answer questions implicating as much. Of course, legal analysis between attorney and client is protected by the attorney-client privilege. Moreover, those communications reflect the give-and-take of the consultative process. It is apparent how and why—those communications would reflect the decision-making process related to the basis for issuing the executive order. To the extent that the Governor has already answered this question through interrogatories, he will answer.

Topic 10(c): As explained, global waiver rules do not apply to the deliberative process privilege. And as explained numerous times through meet-and-confers, Defendant will answer questions about disclosed documents, but Defendant will not answer questions that implicate the deliberative process privilege for communications not reflected by the disclosed documents.

Topics 13 and 14: To the extent that post-decisional actions (if any exist) are implicated by questions, Defendant will answer those questions. Any pre-decisional and deliberative communications that are not reflected in any disclosed document, which discuss *potential* actions, are covered by the privilege.

Topic 17: Contemplated actions are self-explanatorily pre-decisional and deliberative, falling squarely within the deliberative process privilege. Post-decisional actions are not protected, and questions will be answered so long as no other privilege is implicated.

Questions related to HB1471 implicate the legislative-process privilege and are similarly protected as those under the deliberative process privilege. Moreso with

the legislative process privilege, another party (the legislature) has no ground to assert this privilege in this action—all the more reason to protect information covered by that privilege. *See generally League of Women Voters of Fla., Inc. v. Lee*, 340 F.R.D. 446, 453 (N.D. Fla. 2021).

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