**UNITED STATES DISTRICT COURT**
**FOR THE DISTRICT OF COLUMBIA**

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| **JUDICIAL WATCH, INC.,** | |
| **Plaintiff,** | |
| **v.** | **Civil Case No. 14-1242** |
| **U.S. DEPARTMENT OF STATE,** | |
| **Defendant.** | |

**ORDER**

Following this Court's discovery order [65], Judicial Watch has (or will) depose a number of nonparties with information about Hillary Clinton's private email use, the State Department's conduct in this case, or the adequacy of the Department's search for responsive documents. Now, several deponents ask this Court for limited protective orders sealing any audiovisual recordings of their depositions: Justin Cooper [72], Jake Sullivan and Heather Samuelson [78], and all current and former civil servants [71].

The Court will grant their motions. If an individual demonstrates that publicly disclosing discovery information would cause injury or embarrassment, Rule 26(c)(1) allows courts to issue a protective order to prevent "annoyance, embarrassment, oppression, or undue burden." To be sure, any protection must be balanced against the public's strong and legitimate interest in transparency, particularly in a case—like this one—concerning government misconduct. Yet in the civil litigation context, depositions "are not public components of a civil trial." *Seattle Times Co. v. Rhinehart*, 467 U.S. 20, 33 (1984). They are conducted and memorialized not "to educate or titillate the public," but rather to facilitate the factfinding process and to help the parties prepare for trial. *Joy v. North*, 692 F.2d 880, 893 (2d Cir. 1982).

Although the public has an undoubtedly high interest in what these deponents say, the interest does not stretch beyond the testimony's substantive content. So the public can satisfy its interest by reading a written transcript of the depositions, the release of which no deponent opposes. Put another way, the Court does not see what informational value an audiovisual recording would add. What's more, exhibits attached to Justin Cooper's reply brief show the deponents' concerns about "annoyance, embarrassment, [or] oppression" are not purely speculative. *See* ECF No. 91 exs. 1–6.

Of course, the Court does not foreclose future releases of audiovisual recordings—in this or other cases. Judicial Watch may move to unseal portions of these recordings relied upon in future court filings. So too may it use the video recordings at trial, consistent with the Federal Rules of Evidence. Moreover, other depositions of individuals not subject to this Order may implicate the public interest ways that cannot be satisfied through words alone. And of course, although the current technological and media landscape makes testimony presented audiovisually roughly equivalent in informational value as testimony presented in writing, advances along either dimension may militate a different outcome. But—especially since they agree to release transcripts of their testimony—for these deponents and at this time, the Court considers written deposition transcripts adequate to let "the public know what its government is up to." *Nat'l Archives & Records Admin. v. Favish*, 541 U.S. 157, 162 (2004).

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The Court **GRANTS** the motions [71, 72, 78] for protective orders. Any audiovisual recordings of depositions of Justin Cooper, Clarence Finney, John Hackett, Heather Samuelson, Gene Smilansky, Jake Suillivan, Monica Tillery, Sheryl Walter, and Jonathan Wasser shall remain sealed absent further Court order.

Date: April 25, 2019

Royce C. Lamberth
United States District Judge