



CITIZENS FOR  
RESPONSIBILITY &  
ETHICS IN WASHINGTON

January 10, 2021

Dena Kozanas  
Chief Privacy Officer/Chief FOIA Officer  
Privacy Office, Mail Stop 0655  
Department of Homeland Security  
2707 Martin Luther King Jr. AVE SE  
Washington, DC 20528-065

Jimmy Wolfrey  
Senior Director, FOIA Operations and Management  
Privacy Office, Mail Stop 0655  
Department of Homeland Security  
2707 Martin Luther King Jr. AVE SE  
Washington, DC 20528-065

**Re: Expedited Freedom of Information Act Request**

Dear FOIA Officers:

Citizens for Responsibility and Ethics in Washington (“CREW”) submits this request for records and request for expedited processing pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, and U.S. Department of Homeland Security (“DHS”) regulations. Specifically, CREW requests the following:

1. All records from December 1, 2020 to January 6, 2021 reflecting any plans for demonstrations, gatherings, disruptions, attacks, or riots in Washington, D.C. on January 6, 2021 that were identified by any DHS component—including without limitation the Office of Intelligence & Analysis (“I&A”) and the Federal Protective Service (“FPS”)—or other agencies through social media monitoring, threat assessments, or other means.
2. All records from December 1, 2020 to January 6, 2021 reflecting any tips, complaints, referrals, allegations, or reports submitted to any DHS component—including without limitation I&A and FPS—regarding planned demonstrations, gatherings, disruptions, attacks, or riots in Washington, D.C. on January 6, 2021.

3. All records from December 1, 2020 to January 6, 2021 reflecting DHS's communication to other agencies—including without limitation the U.S. Capitol Police, the D.C. Metropolitan Police Department, the Federal Bureau of Investigation, the Department of Justice, or the Department of Defense—of the risks or threats posed by planned demonstrations, gatherings, disruptions, attacks, or riots in Washington, D.C. on January 6, 2021.
4. All records from December 1, 2020 to January 6, 2021 relating to any DHS component—including without limitation I&A and FPS—providing assistance or support to the U.S. Capitol Police, the D.C. Metropolitan Police Department, or any other agency in connection with the January 6, 2021 congressional session to count electoral votes.

Please search for responsive records regardless of format, medium, or physical characteristics. We seek records of any kind, including paper records, electronic records, audiotapes, videotapes, photographs, data, and graphical material. Our request includes without limitation all correspondence, letters, emails, text messages, facsimiles, telephone messages, voice mail messages, and transcripts, notes, or minutes of any meetings, telephone conversations, or discussions. Our request also includes any attachments to emails and other records, and anyone who was cc'ed or bcc'ed on any emails.

If it is your position any portion of the requested records is exempt from disclosure, CREW requests that you provide it with an index of those documents as required under *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973). If some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the requested records. See 5 U.S.C. § 552(b). If it is your position that a document contains non-exempt segments, but that those non-exempt segments are so dispersed throughout the document as to make segregation impossible, please state what portion of the document is non-exempt, and how the material is dispersed throughout the document. See *Mead Data Central v. U.S. Dep't of the Air Force*, 566 F.2d 242, 261 (D.C. Cir. 1977).

Please be advised that CREW intends to pursue all legal remedies to enforce its right under the FOIA to access these documents. Accordingly, because litigation reasonably is foreseeable, the agency should institute an agency-wide preservation hold on documents potentially responsive to this request.

#### **Fee Waiver Request**

In accordance with 5 U.S.C. § 552(a)(4)(A) and agency regulations, CREW requests a waiver of fees associated with processing this request for records. The subject of this request concerns the operations of the federal government, and the disclosures likely will contribute to a better understanding of relevant government procedures by CREW and the general public in a significant way. See 5 U.S.C. § 552(a)(4)(A)(iii). Moreover, the request primarily and

fundamentally is for non-commercial purposes. *See, e.g., McClellan Ecological v. Carlucci*, 835 F.2d 1282, 1285 (9th Cir. 1987).

On January 6, 2021, a violent mob of Trump supporters stormed the U.S. Capitol Building to prevent Congress from counting electoral votes for the 2020 election, leading to five deaths, numerous injuries, defacement of government property, and removal of sensitive government records. Although the event was openly planned weeks in advance, law enforcement was woefully unprepared and failed to contain the mob.<sup>1</sup> According to the U.S. Capitol Police Labor Committee, this “lack of planning” by various agencies “led to the greatest breach of the U.S. Capitol since the War of 1812,” and was a “failure of leadership at the very top.”<sup>2</sup> The requested records will shed light on this historically unprecedented failure to secure the U.S. Capitol against an insurrectionist riot—an issue of overwhelming public interest.

CREW is a non-profit corporation, organized under section 501(c)(3) of the Internal Revenue Code. CREW is committed to protecting the public’s right to be aware of the activities of government officials, to ensuring the integrity of those officials, and to highlighting and working to reduce the influence of money on politics. CREW uses a combination of research, litigation, and advocacy to advance its mission. CREW intends to analyze the information responsive to this request and to share its analysis with the public through reports, press releases, or other means. In addition, CREW will disseminate any documents it acquires from this request to the public through its website, [www.citizensforethics.org](http://www.citizensforethics.org). The release of information obtained through this request is not in CREW’s financial interest.

CREW further requests that it not be charged search or review fees for this request pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II) because CREW qualifies as a member of the news media. *See Nat’l Sec. Archive v. U.S. Dep’t of Defense*, 880 F.2d 1381, 1386 (D.C. Cir. 1989) (holding non-profit a “representative of the news media” and broadly interpreting the term to

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<sup>1</sup> *See* Aruna Viswanatha and Sadie Gurman, *Capitol Police Weren’t Prepared for Rioters, Authorities Say*, *Wall Street Journal*, Jan. 7, 2021, <https://www.wsj.com/articles/capitol-police-werent-prepared-for-rioters-authorities-say-11609978798>; Logan Jaffe et al., *Capitol Rioters Planned for Weeks in Plain Sight. The Police Weren’t Ready*, *ProPublica*, Jan. 7, 2021, <https://www.propublica.org/article/capitol-rioters-planned-for-weeks-in-plain-sight-the-police-werent-ready>; W.J. Hennigan and Vera Bergengruen, *Insurrectionists Openly Planned for Weeks to Storm the Capitol. Why Were Police So Easily Overwhelmed?*, *Time*, Jan. 7, 2021, <https://time.com/5927215/capitol-hill-police-riots-unprepared/>; Ben Collins and Brandy Zadrozny, *Extremists made little secret of ambitions to ‘occupy’ Capitol in weeks before attack*, *NBC News*, Jan. 8, 2021, <https://www.nbcnews.com/tech/internet/extremists-made-little-secret-ambitions-occupy-capital-weeks-attack-n1253499>; Shaila Dewan, et al., *Police Failures Spur Resignations and Complaints of Double Standard*, *New York Times*, Jan. 7, 2021, <https://www.nytimes.com/2021/01/07/us/Capitol-cops-police.html>; David Ignatius, *Why weren’t officials at the Capitol more prepared for this insurrection?*, *Washington Post*, Jan. 6, 2021, [https://www.washingtonpost.com/opinions/why-werent-officials-at-the-capitol-more-prepared-for-this-insurrection/2021/01/06/d1c45788-5079-11eb-bda4-615aaefd0555\\_story.html](https://www.washingtonpost.com/opinions/why-werent-officials-at-the-capitol-more-prepared-for-this-insurrection/2021/01/06/d1c45788-5079-11eb-bda4-615aaefd0555_story.html); Peter Hermann, et al., *How the U.S. Capitol Police were overrun in a ‘monumental’ security failure*, *Washington Post*, Jan. 8, 2021, [https://www.washingtonpost.com/politics/capitol-police/2021/01/07/fa3114b8-5114-11eb-83e3-322644d82356\\_story.html](https://www.washingtonpost.com/politics/capitol-police/2021/01/07/fa3114b8-5114-11eb-83e3-322644d82356_story.html).

<sup>2</sup> John Henry (@JohnHenryWUSA), Twitter, Jan. 7, 2021, <https://twitter.com/JohnHenryWUSA/status/1347307233487564808?s=20>.

include “any person or organization which regularly publishes or disseminates information to the public”).

CREW routinely and systematically disseminates information to the public in several ways. CREW’s website receives tens of thousands of page views every month. The website includes blogposts that report on and analyze newsworthy developments regarding government ethics, corruption, and money in politics, as well as numerous reports CREW has published to educate the public about these issues. In addition, CREW posts the documents it receives under the FOIA on its website.

Under these circumstances, CREW satisfies fully the criteria for a fee waiver.

### **Expedited Processing Request**

CREW requests expedited processing of this FOIA request both because (1) there is an “urgency to inform the public about an actual or alleged federal government activity,” and CREW “is primarily engaged in disseminating information,” 6 C.F.R. § 5.5(e)(1)(ii); and (2) the requested records involve a “matter of widespread and exceptional media interest in which there exist possible questions about the government’s integrity that affect public confidence,” *id.* § 5.5(e)(1)(iv).

First, the historically unprecedented failure to secure the U.S. Capitol against an insurrectionist riot is a “matter of widespread and exceptional media interest in which there exist possible questions about the government’s integrity that affect public confidence,” and there is an “urgency to inform the public” about the matter. The Capitol invasion has been the focus of intense scrutiny and media interest, as evidenced by numerous news articles published on the subject.<sup>3</sup> See 6 C.F.R. § 5.5(e)(3) (“The existence of numerous articles published on a given subject can be helpful to establishing the requirement that there be an ‘urgency to

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<sup>3</sup> See Aruna Viswanatha and Sadie Gurman, Capitol Police Weren’t Prepared for Rioters, Authorities Say, *Wall Street Journal*, Jan. 7, 2021, <https://www.wsj.com/articles/capitol-police-werent-prepared-for-rioters-authorities-say-11609978798>; Logan Jaffe et al., Capitol Rioters Planned for Weeks in Plain Sight. The Police Weren’t Ready, *ProPublica*, Jan. 7, 2021, <https://www.propublica.org/article/capitol-rioters-planned-for-weeks-in-plain-sight-the-police-werent-ready>; W.J. Hennigan and Vera Bergengruen, Insurrectionists Openly Planned for Weeks to Storm the Capitol. Why Were Police So Easily Overwhelmed?, *Time*, Jan. 7, 2021, <https://time.com/5927215/capitol-hill-police-riots-unprepared/>; Ben Collins and Brandy Zadrozny, Extremists made little secret of ambitions to ‘occupy’ Capitol in weeks before attack, *NBC News*, Jan. 8, 2021, <https://www.nbcnews.com/tech/internet/extremists-made-little-secret-ambitions-occupy-capital-weeks-attack-n1253499>; Shaila Dewan, et al., Police Failures Spur Resignations and Complaints of Double Standard, *New York Times*, Jan. 7, 2021, <https://www.nytimes.com/2021/01/07/us/Capitol-cops-police.html>; David Ignatius, Why weren’t officials at the Capitol more prepared for this insurrection?, *Washington Post*, Jan. 6, 2021, [https://www.washingtonpost.com/opinions/why-werent-officials-at-the-capitol-more-prepared-for-this-insurrection/2021/01/06/d1c45788-5079-11eb-bda4-615aaefd0555\\_story.html](https://www.washingtonpost.com/opinions/why-werent-officials-at-the-capitol-more-prepared-for-this-insurrection/2021/01/06/d1c45788-5079-11eb-bda4-615aaefd0555_story.html); Peter Hermann, et al., How the U.S. Capitol Police were overrun in a ‘monumental’ security failure, *Washington Post*, Jan. 8, 2021, [https://www.washingtonpost.com/politics/capitol-police/2021/01/07/fa3114b8-5114-11eb-83e3-322644d82356\\_story.html](https://www.washingtonpost.com/politics/capitol-police/2021/01/07/fa3114b8-5114-11eb-83e3-322644d82356_story.html).

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inform' the public on the topic."). And the urgency to inform is heightened by the fact that an event posing even greater security challenges—the presidential inauguration—will be hosted at the U.S. Capitol in less than two weeks.

Second, CREW is “primarily engaged in disseminating information” to the public. As explained above, CREW’s primary purpose is to inform and educate the public about the activities of government officials and those who influence public officials. To that end, CREW uses statutes like FOIA to gather information the public needs to hold public officials accountable, and disseminates this information through social media and its website, [www.citizensforethics.org](http://www.citizensforethics.org), which receives tens of thousands of views every month.


The undersigned certifies that the above statement is true and correct.

### **Conclusion**

If you have any questions about this request or foresee any problems in fully releasing the requested records, please contact me at (202) 408-5565 or [nsus@citizensforethics.org](mailto:nsus@citizensforethics.org). Also, if CREW’s requests for a fee waiver or expedited processing are denied, please contact our office immediately upon making such a determination.

Where possible, please produce records in electronic format. Please send the requested records to me at either [nsus@citizensforethics.org](mailto:nsus@citizensforethics.org) or Nikhel Sus, Citizens for Responsibility and Ethics in Washington, 1101 K St., N.W., Suite 201, Washington, D.C. 20005.

Sincerely,

A handwritten signature in black ink, appearing to read 'Nikhel Sus', written in a cursive style.

Nikhel Sus  
Senior Counsel