



CITIZENS FOR
RESPONSIBILITY &
ETHICS IN WASHINGTON

March 25, 2021

FOIA Officer
U.S. Customs and Border Protection
90 K Street, NE
FOIA Division
Washington, DC 20229

Re: Freedom of Information Act Request

Dear FOIA Officer:

Citizens for Responsibility and Ethics in Washington (“CREW”) submits this request for records 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 all records sent by, received by, or in the possession of U.S. Customs and Border Protection (“CBP”) employee **Brandon Judd** meeting any of the following criteria:

1. All communications from December 1, 2020 to the date this request is processed with any official from the Office of the Governor of Texas Greg Abbott, the Office of the Attorney General of Texas Ken Paxton, or the Office of Congressman Kevin McCarthy, or with former DHS officials Kenneth Cuccinelli or Robert Law.
2. All communications or records from December 1, 2020 to the date this request is processed relating to any potential or actual agreement between the National Border Patrol Council and DHS or CBP.
3. All communications from January 1, 2020 to January 20, 2021 with former President Donald Trump or any other White House official (including any official with an *.eop.gov email address).
4. All communications relating to any proposed or approved records disposition schedule governing CBP records, including without limitation CBP’s proposed records disposition schedule for Administrative and Management Records: Internal Investigation Records, DAA-568-2018-0001 (submitted May 10, 2018), <https://bit.ly/3c4fejX>.

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.

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). In the event 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 agencywide 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).

CBP's labor union, the National Border Patrol Council ("NBPC"), reportedly played an "outsized role" on immigration policy matters under the Trump administration, and is now working to "undermin[e] the Biden administration's attempts to roll back Trump-era immigration policies."¹ As one example, NBPC President and CBP employee Brandon Judd "appeared at a joint press conference with Texas Governor Greg Abbott, at which the governor denounced Biden's reversal of Trump-era policies and announced that he'd be sending Texas Department of Public Safety officers to the border."² This seems to have been a "deliberate attempt to undermine the chain of command that runs from rank-and-file agents to the president."³ Mr. Judd also reportedly had a direct line

¹ Andrew Feinberg, [Border Patrol agents are 'working to sabotage the Biden administration'](https://bit.ly/3d3Em9H), according to [insiders](#), *The Independent*, March 16, 2021, <https://bit.ly/3d3Em9H>.

² *Id.*

³ *Id.*

of communication with former President Trump, and “frequently went directly to Trump” to address issues “rather than go through proper channels.”⁴ The requested records will shed light on Mr. Judd’s involvement in efforts to undermine the Biden administration’s policy priorities, his role in shaping immigration policy under the Trump administration, and other matters of widespread 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 documents it acquires from this request to the public through its website, 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 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 documents it receives under the FOIA on its website, which has been visited hundreds of thousands of times.

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

Conclusion

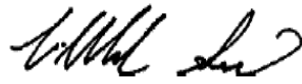
If you have any questions about this request or foresee any problems in fully releasing the requested records, please contact me at (202) 408-5565 or nsus@citizensforethics.org. Also, if CREW’s request for a fee waiver is not granted in full, please contact our office immediately upon making such a determination.

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

⁴ *Id.*

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Sincerely,

A handwritten signature in black ink, appearing to read "Nikhel Sus". The signature is fluid and cursive, with a large, sweeping flourish at the end.

Nikhel Sus
Senior Counsel