

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

CITIZENS FOR RESPONSIBILITY AND  
ETHICS IN WASHINGTON,  
1101 K Street NW, Suite 201,  
Washington, DC 20005,

Plaintiff,

v.

U.S. DEPARTMENT OF STATE,  
2201 C Street, NW  
Washington, DC 20520, and

U.S. DEPARTMENT OF STATE  
OFFICE OF INSPECTOR GENERAL,  
1700 North Moore Street, SA-39  
Arlington, VA 22209,

Defendants.

Civil Action No. \_\_\_\_\_

**COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF**

1. Plaintiff Citizens for Responsibility and Ethics in Washington (“CREW”) brings this action under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, against Defendants U.S. Department of State (“State”) and State’s Office of Inspector General (“OIG”) seeking records relating to former Secretary of State Mike Pompeo’s use of taxpayer funds from the Department’s Emergencies in the Diplomatic and Consular Service appropriation (also known as the “K Fund”), and the OIG’s related investigations of Mr. Pompeo.

2. CREW seeks declaratory relief that Defendants are in violation of FOIA, and injunctive relief requiring Defendants to immediately process and release the requested records.

### **Jurisdiction and Venue**

3. This Court has subject-matter jurisdiction and personal jurisdiction under 5 U.S.C. §§ 552(a)(4)(B) and 552(a)(6)(C)(i). The Court also has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 2201(a), and 2202.

4. Venue lies in this district under 5 U.S.C. § 552(a)(4)(B).

### **Parties**

5. Plaintiff CREW is a non-profit, non-partisan organization organized under section 501(c)(3) of the Internal Revenue Code. CREW is committed to protecting the rights of citizens to be informed about the activities of government officials and agencies, and to ensuring the integrity of government officials and agencies. CREW seeks to empower citizens to have an influential voice in government decisions and in the government decision-making process through the dissemination of information about public officials and their actions. To advance its mission, CREW uses a combination of research, litigation, and advocacy. As part of those efforts, CREW uses government records it obtains under FOIA.

6. Defendant State is an agency within the meaning of 5 U.S.C. § 552(f)(1). State has possession, custody, and control of the requested records.

7. Defendant OIG is an agency within the meaning of 5 U.S.C. § 552(f)(1). The OIG has possession, custody, and control of the requested records.

### **Factual Background**

8. The Emergencies in the Diplomatic and Consular Service appropriation, or the K Fund, is “used to meet unforeseen emergency requirements in the conduct of foreign affairs, including evacuations of personnel and their families overseas, and, in certain circumstances, private U.S. citizens and third country nationals; travel and representational expenses;

confidential payments; urgent medical and travel expenses related to natural disasters or terrorist incidents; and other authorized activities that further the realization of foreign policy objectives.” Dep’t of State, Emergencies in the Diplomatic and Consular Service, <https://bit.ly/2MeBNbh>; *see also* 22 U.S.C. § 2671.

9. Federal law requires the OIG to “conduct a periodic audit” of State’s K Fund expenditures and to “prepare and transmit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate an annual report indicating whether such expenditures were made in accordance” with law. 22 U.S.C. § 2671(c).

10. During his tenure as Secretary of State, Mike Pompeo repeatedly expended money from the K Fund on events that appear to have been designed to further his own political ambitions, rather than State’s foreign policy objectives.

11. The most noteworthy example is the former Secretary’s Madison Dinners, a series of lavish events with private-sector invitees including “[b]illionaire CEOs” and “Republican megadonors.” Josh Lederman, Laura Strickler, and Dan De Luce, Pompeo’s elite taxpayer-funded dinners raise new concern, *NBC News*, May 19, 2020, <https://nbcnews.to/3r1Ni4E>. The dinners drew widespread concern about potential abuses of “federal resources to cultivate a donor and supporter base for Pompeo’s political ambitions.” *Id.*

12. Former State Department Inspector General Steve Linick reportedly made an inquiry into the office that organized the Madison Dinners shortly before he was fired at former Secretary Pompeo’s behest. *Id.*

13. The OIG has not publicly released any annual report of its statutorily-mandated audits of K Fund expenditures during former Secretary Pompeo’s tenure.

14. To help answer questions about these issues, CREW submitted four FOIA requests to State and the OIG.

***December 7, 2020 FOIA Request to State***

15. On December 7, 2020, CREW submitted a FOIA request to State seeking “every quarterly Unclassified Expenditure Report for the Emergencies in the Diplomatic and Consular Service Appropriation, also known as the ‘K Fund,’ issued between January 1, 2018 and the date this request is processed.”

16. CREW’s request sought a fee waiver.

17. By email dated December 8, 2020, State acknowledged receipt of CREW’s FOIA request, assigned it tracking number F-2021-01693, invoked a 10-day extension of the agency’s response deadline due to “unusual circumstances,” and stated it would make a determination on CREW’s fee waiver request at a later date.

18. To date, CREW has received no other communications from State regarding its December 7, 2020 FOIA request.

***January 29, 2021 FOIA Request to the OIG***

19. On January 29, 2021, CREW submitted a FOIA request to the OIG seeking “every annual audit report regarding the State Department’s expenditures from the Emergencies in the Diplomatic and Consular Service appropriation (also known as the ‘K Fund’) issued by the Office of Inspector General to Congress pursuant to 22 U.S.C. § 2671(c) since January 1, 2018.”

20. CREW’s request sought a fee waiver.

21. By letter dated February 16, 2021, the OIG acknowledged receipt of CREW’s request, assigned it tracking number 2021-F-018, and stated it would make a determination on CREW’s fee waiver request at a later date.

22. To date, CREW has received no other communications from the OIG regarding its January 29, 2021 FOIA request.

***May 18 and May 22, 2020 FOIA Requests to the OIG***

23. On May 18, 2020, CREW submitted a FOIA request to the OIG seeking:

1. All records from April 1, 2020 to the date this request is processed concerning any inquiry, review, analysis, or receipt of any allegation by the State Department's Office of Inspector General ("OIG") of Secretary of State Mike Pompeo's potential misuse of State Department employees or resources to perform personal tasks on behalf of himself or his family members. This request includes without limitation any responsive communications between the OIG and any other State Department office or component, including the Office of the Secretary.
2. All records from April 1, 2020 to the date this request is processed concerning the potential or actual termination, removal, or replacement of Inspector General Steve Linick.

24. CREW's request sought a fee waiver and expedited processing.

25. By email dated May 18, 2020, the OIG acknowledged receipt of CREW's request, assigned it tracking number 2020-218, and stated it was reviewing CREW's request for expedited processing.

26. On May 22, 2020, CREW submitted another FOIA request to the OIG seeking:

1. All records from January 1, 2020 to the date this request is processed concerning any inquiry by the State Department's Office of Inspector General ("OIG") into Secretary of State Mike Pompeo's May 2019 "emergency" declaration authorizing arms sales to Saudi Arabia and the United Arab Emirates, including without limitation any responsive communications between the OIG and the Office of the Secretary.
2. All records from January 1, 2020 to the date this request is processed concerning Secretary Pompeo's "Madison Dinner Series," including without limitation any record containing the phrase "Madison Dinner," and any communication about the Madison Dinners between the OIG and the Office of the Chief of Protocol or the Office of the Secretary.
3. All records from January 1, 2020 to the date this request is processed concerning any inquiry by the OIG regarding any official employed in the Office of the Chief of Protocol, including without limitation any

responsive communications between the OIG and the Office of the Chief of Protocol or the Office of the Secretary.

27. By letter dated June 9, 2020, the OIG acknowledged receipt of CREW's request, assigned it tracking number 2020-230, and stated it had not yet made a decision on CREW's fee waiver request.

28. Between July 30 and December 8, 2020, CREW emailed the OIG several times to check on the status its May 18 and May 22, 2020 requests, and the OIG stated it was still processing both requests.

29. To date, CREW has received no other communications from the OIG regarding its May 18 and May 22, 2020 FOIA requests.

**CREW'S CLAIMS FOR RELIEF**

**COUNT I**

**State's Wrongful Withholding of Records Responsive to  
CREW's December 7, 2020 FOIA Request**

(Tracking No. F-2021-01693)

30. CREW repeats and re-alleges the preceding paragraphs.

31. In its December 7, 2020 FOIA request, CREW properly asked for records within the possession, custody, and control of State.

32. State has failed to conduct an adequate search in response to CREW's FOIA request.

33. State is wrongfully withholding records responsive to CREW's FOIA request.

34. By failing to timely release all requested records in full to CREW, State is in violation of FOIA.

35. CREW is therefore entitled to injunctive and declaratory relief requiring immediate processing and disclosure of the requested records.

**COUNT II**

**The OIG's Wrongful Withholding of Records Responsive to  
CREW's May 18, 2020, May 22, 2020, and January 29, 2021 FOIA Requests**

(Tracking Nos. 2020-218, 2020-230, and 2021-F-018)

36. CREW repeats and re-alleges the preceding paragraphs.

37. In its May 18, 2020, May 22, 2020, and January 29, 2021 FOIA requests, CREW properly asked for records within the possession, custody, and control of the OIG.

38. The OIG has failed to conduct adequate searches in response to CREW's FOIA requests.

39. The OIG is wrongfully withholding records responsive to CREW's FOIA requests.

40. By failing to timely release all requested records in full to CREW, the OIG is in violation of FOIA.

41. CREW is therefore entitled to injunctive and declaratory relief requiring immediate processing and disclosure of the requested records.

**Requested Relief**

WHEREFORE, CREW respectfully requests that this Court:

1. Order Defendants to immediately and fully process CREW's FOIA requests and disclose all non-exempt records to CREW;
2. Issue a declaration that CREW is entitled to immediate processing and disclosure of the requested records;
3. Provide for expeditious proceedings in this action;
4. Retain jurisdiction of this action to ensure no agency records are wrongfully withheld;

5. Award CREW its costs and reasonable attorneys' fees in this action; and
6. Grant such other relief as the Court may deem just and proper.

Date: March 9, 2021

Respectfully Submitted,

/s/ Nikhel S. Sus

Nikhel S. Sus

(D.C. Bar No. 1017937)

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