



CITIZENS FOR  
RESPONSIBILITY &  
ETHICS IN WASHINGTON

May 13, 2021

Douglas Hibbard  
Chief, Initial Request Staff  
Office of Information Policy  
Department of Justice  
Suite 11050  
1425 New York Avenue, N.W.  
Washington, D.C. 20530-0001

**Re: Freedom of Information Act Request**

Dear Mr. Hibbard:

Citizens for Responsibility and Ethics in Washington (“CREW”) makes this request for records pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, and U.S. Department of Justice (“DOJ”) regulations. Specifically, CREW requests:

1. All communications from January 1, 2021 to January 6, 2021 between the office of former acting Attorney General Jeffrey Rosen and any of the following individuals:

- Former President Trump
- Any White House employee, including anyone with an “\*.eop.gov” email domain
- Attorneys or representatives acting on behalf of President Trump
- Jeffrey Bossert Clark

2. All communications from January 1, 2021 to January 6, 2021 between former head of the Civil Division Jeffrey Bossert Clark and any of the following individuals:

- Former President Trump
- Any White House employee, including anyone with an “\*.eop.gov” email domain
- Attorneys or representatives acting on behalf of President Trump
- Jeffrey Rosen

3. All records reflecting any meeting notes, summaries, agendas, minutes, calendar entries, or other records reflecting meetings or calls from January 1, 2021 to January 6, 2021 involving former acting Attorney General Jeffrey Rosen or former head of the Civil Division Jeffrey Bossert Clark and any of the following individuals:

- Former President Trump
- Any White House employee, including anyone with an “\*.eop.gov” email domain
- Attorneys or representatives acting on behalf of President Trump

Our request includes but is not limited to the Office of the Attorney General, the Office of the Deputy Attorney General, and the Office of the Associate Attorney General.

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). 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).

### **Fee Waiver Request**

In accordance with 5 U.S.C. § 552(a)(4)(A) and DOJ 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 May 12, 2021, the House Committee on Oversight and Reform hosted a hearing titled “The Capitol Insurrection: Unexplained Delays and Unanswered Questions,” which included testimony from former Acting Attorney General Jeffrey A. Rosen.<sup>1</sup> Representative Gerry Connolly asked Mr. Rosen, “prior to January 6th, were you asked or instructed by President Trump to take any action at [the Department of Justice] to advance election fraud claims or to seek to overturn any part of the 2020 election results?”<sup>2</sup> Mr. Rosen answered, in part, “I cannot tell you, consistent with my obligations today, about private conversations with the President, one way or another.”<sup>3</sup> Rep. Connolly then asked, “Did you have conversations prior to January 6th with the President of the United States urging you to question or overturn or challenge the

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<sup>1</sup>House Oversight Committee, *The Capitol Insurrection: Unexplained Delays and Unanswered Questions*, available at <https://oversight.house.gov/legislation/hearings/the-capitol-insurrection-unexplained-delays-and-unanswered-questions>.

<sup>2</sup>Oversight Committee, *The Capitol Insurrection: Unexplained Delays and Unanswered Questions*, [video]. *Youtube*. May 12, 2021. available at <https://www.youtube.com/watch?v=UmkzbWNlcGU&t=4409s>, timestamp 1:14:05-1:14:19.

<sup>3</sup>Oversight Committee, *The Capitol Insurrection: Unexplained Delays and Unanswered Questions*, [video]. *Youtube*. May 12, 2021. available at <https://www.youtube.com/watch?v=UmkzbWNlcGU&t=4409s>, timestamp 1:14:31-1:14:36.

election results of 2020?”<sup>4</sup> and noted that “no executive privilege [had] been invoked prior to this hearing and your testimony.”<sup>5</sup> Mr. Rosen again did not provide a yes or no answer.<sup>6</sup> Rep. Connolly then asked, “Did you meet with the President at the White House on January 3rd?” Mr. Rosen answered, “I did.” Rep. Connolly clarified, “You did? But you decline to, you decline to tell us what the nature of that conversation was about is that correct?” Mr. Rosen answered, “I, I can tell you it did not relate to the planning and preparations for, uh, the events of January 6th.” Rep. Connolly then asked, “Can you tell us whether it, any aspect, it involved a discussion about the election itself?” Mr. Rosen replied, “Uh, I’m sorry Congressman, again and respectfully, I don’t think it’s uh my role here today to discuss communications with the president in the oval office or the White House um without authorization to do that so, uh, I’ve tried to be as forthcoming as I can be and will continue to do, but that one I’m not going to be able to answer your question.”<sup>7</sup>

Rep. Connolly’s questions also referenced reporting that one of Mr. Rosen’s subordinates, Jeffrey Clark, had devised a plan with former president Trump to oust Mr. Rosen as acting attorney general and wield the DOJ’s power to force Georgia state lawmakers to overturn its presidential election results.<sup>8</sup> Rep. Connolly asked, “Mr. Rosen before January 3rd, that meeting you confirm you did have with the president, Jeffrey Clark, your subordinate at the DOJ, reportedly told you that your days as acting attorney general were numbered, and that DOJ was going to stop Congress from certifying the election results. Is that true?” Mr. Rosen answered, “Congressman, uh, the the, uh, items you’re talking about, I’ve seen media accounts of, as I’m sure you have, but that uh set of uh episode if you will, was the subject of uh, an inspector general investigation so I’m just not going to be in a position to discuss that.”<sup>9</sup>

The requested records are likely to contribute to public understanding of the degree to which former president Trump asked the Department of Justice, including his former acting Attorney General, to aid him in his attempts to overturn the election. Mr. Rosen’s failure to answer Rep. Connolly’s questions clearly undermines public trust in the DOJ. The public deserves to know what role, if any, the DOJ played in Trump’s anti-democratic efforts.

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,

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<sup>4</sup> Oversight Committee, *The Capitol Insurrection: Unexplained Delays and Unanswered Questions*, [video]. *Youtube*. May 12, 2021. available at <https://www.youtube.com/watch?v=UmkzbWNlcGU&t=4409s>, timestamp 1:15:02-1:15:13.

<sup>5</sup> Oversight Committee, *The Capitol Insurrection: Unexplained Delays and Unanswered Questions*, [video]. *Youtube*. May 12, 2021. available at <https://www.youtube.com/watch?v=UmkzbWNlcGU&t=4409s>, timestamp 1:15:16-1:15:21.

<sup>6</sup> Oversight Committee, *The Capitol Insurrection: Unexplained Delays and Unanswered Questions*, [video]. *Youtube*. May 12, 2021. available at <https://www.youtube.com/watch?v=UmkzbWNlcGU&t=4409s>, timestamp 1:15:25-1:15:52.

<sup>7</sup> Oversight Committee, *The Capitol Insurrection: Unexplained Delays and Unanswered Questions*, [video]. *Youtube*. May 12, 2021. available at <https://www.youtube.com/watch?v=UmkzbWNlcGU&t=4409s>, timestamp 1:16:05-1:17:00.

<sup>8</sup> Benner, Katie. *Trump and Justice Dept. Lawyer Said to Have Plotted to Oust Acting Attorney General*. *The New York Times*, January 22, 2021. available at <https://www.nytimes.com/2021/01/22/us/politics/jeffrey-clark-trump-justice-department-election.html>.

<sup>9</sup> Oversight Committee, *The Capitol Insurrection: Unexplained Delays and Unanswered Questions*, [video]. *Youtube*. May 12, 2021. available at <https://www.youtube.com/watch?v=UmkzbWNlcGU&t=4409s>, timestamp 1:17:01-1:17:44.

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 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.

### **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 [lwhite@citizensforethics.org](mailto:lwhite@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 either the email listed above or Lauren White, Citizens for Responsibility and Ethics in Washington, 1101 K Street, N.W., Suite 201 Washington, D.C. 20005. Thank you for your assistance in this matter.

Sincerely,

Lauren White  
Press Associate