



CITIZENS FOR
RESPONSIBILITY &
ETHICS IN WASHINGTON

August 2, 2021

Melissa Golden
Lead Paralegal and FOIA Specialist
Department of Justice
Room 5511, 950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001

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 Department of Justice (“DOJ”) regulations.

Specifically, CREW requests all opinions, memoranda or analyses issued by the Office of Legal Counsel (“OLC”), including by former Assistant Attorney General Steven Engel, between November 4, 2020 and January 20, 2021, pertaining in any way to DOJ involvement in litigation or investigations relating to the results of the 2020 election, including, but not limited to, opinions provided to former Attorney General William Barr or former Acting Attorney General Jeffrey Rosen on whether DOJ’s involvement would be in compliance with federal law and agency policy.

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 rights under FOIA. Accordingly, because litigation is reasonably foreseeable, the agency should institute an agency wide preservation hold on all 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 id.* § 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).

Recently released emails¹ and news reports² demonstrate that President Donald J. Trump and former White House Chief of Staff Mark Meadows “pressured senior DOJ officials to pursue politically motivated, frivolous election fraud investigations and file a baseless legal complaint in the United States Supreme Court.”³ DOJ, however, had no legitimate role to play in pursuing President Trump’s personal political agenda. Moreover, based on long-standing Department policy, DOJ policy defers principal responsibility for overseeing the election process” to the states, which have “primary authority to ensure that only qualified individuals register and vote, that the polling process is conducted fairly, and that the candidate who received the most valid votes is certified as the winner.”⁴ Mr. Meadows’ outreach to DOJ may also have “violated longstanding guidelines that essentially forbid almost all White House personnel,

¹ *See* Selected Documents, President Trump Pressure Campaign on Department of Justice, House Committee on Oversight and Reform, June 2021 (“Trump Pressure Campaign Documents”), at 4-30, <https://bit.ly/3iyq2sF>.

² Katie Benner, Meadows Pressured Justice Dept. to Investigate Election Law Claims, *New York Times*, June 5, 2021, <https://nyti.ms/3ist29U>; Jonathan D. Karl, Inside William Barr’s Breakup With Trump, *The Atlantic*, June 27, 2021, <https://bit.ly/3eCRiVL>; see also Jonathan Swan, Trump turns on Barr, Jan. 18, 2021, <https://bit.ly/3BfFUbQ>.

³ *See* Letter from Noah D. Bookbinder to Attorney General Merrick Garland and FBI Director Christopher Wray, July 29, 2021, <https://bit.ly/37mZs0t>.

⁴ *Federal Prosecution of Election Offenses* 53 (Richard C. Pilger et al. eds., 8th ed. 2017), <https://www.justice.gov/criminal/file/1029066/download>.

including the chief of staff, from contacting the Justice Department about investigations or other enforcement actions.”⁵

There is public interest in the release of these records to help shed light on how DOJ, and in particular, OLC, responded to the apparent illegal pressure campaign carried out by the White House to overturn the results of the 2020 presidential election and to better understand the full extent of White House interference with DOJ’s efforts to carry out its legitimate role consistent with federal law and Department policy.

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. 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 disseminates information obtained through FOIA to the public in several ways. For example, CREW’s website receives hundreds 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. These reports frequently rely on government records obtained through FOIA. CREW also posts the documents it obtains through FOIA on its website.

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

⁵ Benner, New York Times, June 5, 2021.

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 foia@citizensforethics.org. Also, if CREW's request for a fee waiver is 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 foia@citizensforethics.org or Virginia Canter, Citizens for Responsibility and Ethics in Washington, 1331 F St. NW, Suite 900, Washington, D.C. 20004. Thank you for your assistance in the matter.

Sincerely,

Virginia Canter
Chief Ethics Counsel