



CITIZENS FOR
RESPONSIBILITY &
ETHICS IN WASHINGTON

September 8, 2021

VIA EMAIL: usms.foia@usdoj.gov

Charlotte M. Luckstone
FOIA/PA Officer
Office of General Counsel, CG-3, 15th Floor
Washington, DC, 20350-0001

Re: Freedom of Information Act Request

Dear Ms. Luckstone:

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 the following:

1. The United States Marshal Service’s (USMS or Marshal Service) body-worn camera (BWC) policy and phased implementation plans required by the June 7, 2021 memorandum from Deputy Attorney General Lisa Monaco (June 2021 DAG Memo).¹
2. Records sufficient to identify the designated senior official with responsibility for implementation and oversight of USMS’s BWC policy, per the June 2021 DAG Memo.
3. Any related communications between USMS and DOJ concerning the following items and their inclusion in the USMS BWC policy:
 - a. The responsibilities for USMS agents to carry, operate, maintain, and secure equipment, including when to activate and deactivate BWCs.
 - b. The type(s) of BWC equipment authorized for use.
 - c. The duration of time and scope of the BWC footage preserved prior to its activation in the “buffering period.”
 - d. Procedures governing the collection, storage, access, retention, use, and dissemination of USMS BWC recordings.
 - e. Procedures governing the use of BWCs by all members of USMS-sponsored task forces.

¹ <https://www.justice.gov/dag/page/file/1402061/download>



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- f. Procedures for expedited public release of recordings in cases involving serious bodily injury or death.
4. The Privacy Impact Assessment and plan for annual privacy reviews relating to the use of BWCs and associated equipment as required by the June 2021 DAG Memo.
5. All communications reflecting any consultation by USMS with the Office of Records Management for the purpose of ensuring that the USMS BWC policy is fully compliant with all recordkeeping laws, regulations, rules, policies, and guidance.
6. All communications between USMS and the Justice Management Division concerning resources required for full implementation of USMS's BWC policy.
7. All records reflecting USMS efforts to design evaluation metrics to measure the impact of its BWC policy.
8. All communications between USMS and any state or local task-force partners, alerting said task-force partners about the creation or implementation of its BWC 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



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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).

In recent years, DOJ has faced criticism from the public and local police departments for its opaque handling of law enforcement encounters, including those involving the use of deadly force.² Between January 2015 and September 10, 2020 alone, at least 177 individuals were shot by either a US Marshal, a US Marshal task force member, or a local police officer assisting the Marshal Service with an arrest.³ 124 of those 177 marshal-involved shootings were fatal. Although many local law enforcement agencies have adopted the routine use of body-worn cameras, local police officers assigned to federal task forces were strictly prohibited from using their recording devices until October 2020, when DOJ issued a directive reversing the ban.⁴ Despite this policy change concerning local task force members, DOJ's law enforcement components, including the Bureau of Alcohol, Tobacco, Firearms & Explosives (ATF), the Drug Enforcement Administration (DEA), the Federal Bureau of Investigation (FBI), and the USMS were still under no obligation to institute their own body-worn camera policies.

On June 7, 2021, in response to calls for increased transparency and accountability from the public, local police departments and at the recommendation of DOJ's law enforcement components, Deputy Attorney General Lisa Monaco issued a memorandum to the then-ranking officials of the ATF, DEA, FBI, and USMS directing each agency to develop and submit for review within 30 days a plan for implementing the use of body-worn cameras by their respective agents during pre-planned law enforcement operations involving encounters with the public.⁵ As such, the identified DOJ components were required to submit their respective body-worn camera policies by July 7, 2021. As of the date of this request, no such policies have been announced or released to the public. As set forth herein, the requested records will shed light on these matters of considerable 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,

² Simone Weichselbaum, Sachi McClendon, and Uriel J. Garcia, [U.S. Marshals Act Like Local Police with More Violence and Less Accountability](https://www.themarshallproject.org/2021/02/11/u-s-marshals-act-like-local-police-with-more-violence-and-less-accountability), *The Marshall Project*, February 11, 2021, <https://www.themarshallproject.org/2021/02/11/u-s-marshals-act-like-local-police-with-more-violence-and-less-accountability>.

³ *Id.*

⁴ <https://www.justice.gov/oip/page/file/1332151/download>

⁵ <https://www.justice.gov/dag/page/file/1402061/download>



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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.

Conclusion

If you have any questions about this request or foresee any problems in fully releasing the requested records, please contact me at liheanachor@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 liheanachor@citizensforethics.org or Laura Iheanachor, 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,

A handwritten signature in black ink, appearing to read "Laura Iheanachor", written in a cursive style.

Laura Iheanachor,
Staff Counsel