

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

CITIZENS FOR RESPONSIBILITY AND  
ETHICS IN WASHINGTON,  
1331 F Street NW, Suite 900  
Washington, DC 20004,

Plaintiff,

v.

U.S. DEPARTMENT OF JUSTICE,  
950 Pennsylvania Avenue NW  
Washington, DC 20530,

Defendant.

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 Defendant U.S. Department of Justice (“DOJ”) seeking records relating to meetings and conversations involving former Attorney General William Barr and other high-ranking officials concerning former President Donald Trump’s failed attempts to overturn the results of the 2020 election.

2. CREW seeks declaratory relief that Defendant is in violation of FOIA, and injunctive relief requiring Defendant 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 DOJ is an agency within the meaning of 5 U.S.C. § 552(f)(1). The Office of Information Policy (“OIP”) is a component of DOJ. DOJ has possession, custody, and control of the requested records.

### **Legal Framework**

7. FOIA, 5 U.S.C. § 552, requires federal agencies to release requested records to the public unless one or more specific statutory exemptions apply.

8. An agency must respond to a party making a FOIA request within 20 working days, notifying that party of at least the agency’s determination of which the requested records it will release, which it will withhold and why, and the requester’s right to appeal the determination to the agency head. 5 U.S.C. § 552(a)(6)(A)(i).

9. An agency’s failure to make this determination within 20 business days is subject to judicial review without exhausting administrative remedies. 5 U.S.C. § 552(a)(6)(C)(i)

10. In “unusual circumstances,” an agency may extend the time to respond to a request by no more than 10 working days provided that the agency gives the requester written

notice setting forth the unusual circumstances and the date on which the agency expects to make a determination. 5 U.S.C. § 552(a)(6)(B)(i)-(iii). FOIA defines “unusual circumstances” as including the need to search for and collect responsive records from offices other than the office processing the request; the need to search for, collect, and examine a “voluminous amount of separate and distinct records;” and the need to consult with another agency. 5 U.S.C. § 552(a)(6)(B)(iii)(I)-(III).

### **Factual Background**

11. On November 7, 2020, Joe Biden was elected the 46th President of the United States.<sup>1</sup> The Electoral College ratified the election results and confirmed President Biden’s victory on December 14, 2020.<sup>2</sup> The Electoral College votes were ultimately certified by Congress on January 7, 2021, despite a deadly attack on the Capitol on January 6 that tried to prevent the certification.<sup>3</sup>

12. Despite the foregoing and over 60 failed legal challenges in federal and state court, former President Trump has never publicly conceded that President Biden duly won the 2020 election.<sup>4</sup> He continues to falsely assert that the 2020 election was stolen from him, and his lies are eroding the public’s confidence in our democratic elections.<sup>5</sup>

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<sup>1</sup> Jonathan Martin and Alexander Burns, Biden Wins Presidency, Ending Four Tumultuous Years Under Trump, *New York Times*, Nov. 7, 2020, <https://www.nytimes.com/2020/11/07/us/politics/biden-election.html>.

<sup>2</sup> Mark Sherman, Electoral College makes it official: Biden won, Trump lost, *Associated Press*, Dec. 14, 2020, <https://apnews.com/article/joe-biden-270-electoral-college-vote-d429ef97af2bf574d16463384dc7cc1e>.

<sup>3</sup> Rosalind S. Helderman, Karoun Demirjian, and Seung Min Kim, Congress affirms Biden’s presidential win follow riot at U.S. Capitol, *Washington Post*, Jan. 7, 2021 [https://www.washingtonpost.com/politics/congress-resumes-work-to-confirm-biden-win-on-historic-day-marred-by-riot/2021/01/06/4c3729dc-5039-11eb-b96e-0e54447b23a1\\_story.html](https://www.washingtonpost.com/politics/congress-resumes-work-to-confirm-biden-win-on-historic-day-marred-by-riot/2021/01/06/4c3729dc-5039-11eb-b96e-0e54447b23a1_story.html).

<sup>4</sup> Amy Sherman and Miriam Valverde, Joe Biden is right that more than 60 of Trump’s election lawsuits lacked merit, *PolitiFact*, Jan. 8, 2021, <https://www.politifact.com/factchecks/2021/jan/08/joe-biden/joe-biden-right-more-60-trumps-election-lawsuits-l/>.

<sup>5</sup> Stephen Collinson, Trump’s Big Lie is changing the face of American politics, *CNN*, Sept. 16, 2021, <https://www.cnn.com/2021/09/16/politics/trump-big-lie-gop-election/index.html>.

13. On June 27, 2021, *The Atlantic* published an account of former Attorney General Barr's final weeks in office. The report highlighted various instances of President Trump's attempts to overturn the 2020 election, citing interactions between President Trump and various members of his administration with a level of detail that suggests Mr. Barr or others may have created contemporaneous notes or records of these meetings.<sup>6</sup>

14. One such meeting occurred at the White House on December 1, 2020, following Attorney General Barr's declaration to the news media that DOJ did not find widespread fraud in the 2020 election. At that meeting, President Trump reportedly furiously confronted Mr. Barr about his statement in the presence of other White House and DOJ officials.<sup>7</sup>

15. According to Mr. Barr, in addition to the December 1, 2020 White House meeting, he had other conversations on the issue with President Trump, former White House Chief of Staff Mark Meadows, White House Counsel Pat Cipollone, members of his own staff, such as Kerri Kupec and William Levi, *Associated Press* reporter Michael Balsamo, and Senator Mitch McConnell.<sup>8</sup>

16. The American public deserves transparency about all of President Trump's anti-democratic efforts to overturn the 2020 election and how his administration, including his then-Attorney General, responded to those efforts.

17. To this end, CREW submitted a FOIA request to OIP on July 6, 2021, seeking all records relating to the following meetings and conversations involving former Attorney General Barr:

1. The December 1, 2020 meeting at DOJ with Michael Balsamo, William Levi, and Kerri Kupec.

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<sup>6</sup> Jonathan D. Karl, *Inside William Barr's Breakup With Trump*, *The Atlantic*, June 27, 2021, <https://www.theatlantic.com/politics/archive/2021/06/william-barrs-trump-administration-attorney-general/619298/>.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

2. Any meeting at the White House with Donald Trump, Mark Meadows, or Pat Cipollone between December 1, 2020 and December 24, 2020.
3. Any meeting or conversation with Mark Meadows between December 1, 2020 and December 24, 2020.
4. Any meeting or conversation with Senator Mitch McConnell between November 1, 2020 and December 24, 2020.
18. CREW's request sought a fee waiver.
19. By letter dated August 4, 2021, OIP acknowledged receipt of CREW's request, assigned it tracking number FOIA-2021-01656, and invoked an extension of its response deadline due to "unusual circumstances."
20. To date, CREW has received no further communications from OIP regarding its July 6, 2021 FOIA request.

### **CREW'S CLAIM FOR RELIEF**

#### **DOJ's Wrongful Withholding of Records Responsive to CREW's July 6, 2021 FOIA Request**

21. CREW repeats and re-alleges the preceding paragraphs.
22. In its July 6, 2021 FOIA request, CREW properly asked for records within the possession, custody, and control of DOJ and its component OIP.
23. DOJ and OIP have failed to conduct an adequate search in response to CREW's request.
24. DOJ and OIP are wrongfully withholding records responsive to CREW's request.
25. By failing to timely release all requested records in full to CREW, DOJ and OIP are in violation of FOIA.
26. CREW has constructively exhausted its administrative remedies.

27. 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 Defendant to immediately and fully process CREW's FOIA request and disclose all non-exempt records to CREW;
2. Declare 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: October 14, 2021

Respectfully Submitted,

/s/ Nikhel S. Sus

Nikhel S. Sus

(D.C. Bar No. 1017937)

Laura Iheanachor

(Pending D.C. Bar Admission)

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