



CITIZENS FOR
RESPONSIBILITY &
ETHICS IN WASHINGTON

August 16, 2022

SENT VIA EMAIL: FOIA@usss.dhs.gov

FOIA Officer
United States Secret Service
Communications Center (FOIA/PA)
245 Murray Lane, SW Building T-5
Washington, D.C. 20223

Re: Expedited Freedom of Information Act Request

Dear FOIA Officer:

On behalf of Citizens for Responsibility and Ethics in Washington (“CREW”) I submit this request for records from the U.S. Secret Service pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. §552, and U.S. Department of Homeland Security (“DHS”) regulations.

First, CREW requests all communications and directives from the Secret Service Office of Technical Development and Mission Support (“TEC”) concerning the three-month system migration, which included a reset begun in January 2021 of the Secret Service’s mobile phones, referenced in the July 14, 2022 Statement of Anthony Guglielmi, Chief of Communications for the United States Secret Service on Accusations of Deleted Text Messages From DHS Inspector General (“Guglielmi Statement”).¹ This request includes, but is not limited to, directions on whether and how to preserve text messages and emails.

Second, CREW requests all communications and directives concerning the recordkeeping responsibilities of departing Secret Service employees, including but not limited to whether and how to preserve text messages and emails.

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, minutes of any meetings, telephone conversations, or discussions. Our request also includes any attachments to emails and other records.

If it is your position that 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

¹ That statement can be found at <https://www.secretservice.gov/newsroom/releases/2022/07/statement-anthony-guglielmi-chief-communications-united-states-secret#:~:text=Home-.Statement%20of%20Anthony%20Guglielmi%2C%20Chief%20of%20Communications%20for%20the%20United,Messages%20From%20DHS%20Inspector%20General&text=The%20insinuation%20that%20the%20Secret.following%20a%20request%20is%20false.>

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 right under the FOIA to access these documents. Accordingly, because litigation reasonably is foreseeable, the agency should institute an agency-wide preservation hold on 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* 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).

As recently reported, on July 13, 2022 DHS Inspector General Joseph V. Cuffari sent a letter to the leaders of the House and Senate Homeland Security committees advising that “many U.S. Secret Service (USSS) text messages, from January 5 and 6, 2021 were erased,” which the Secret Service claimed was “part of a device-replacement program.”² Those erasures, however, occurred *after* OIG requested copies of the texts,³ and had requested that the Secret Service preserve its data.⁴ The Inspector General further stated that efforts by his office to investigate the January 6 attack on the Capitol were being hindered by the Secret Service.⁵ According to the letter, this is part of a larger pattern by DHS to resist inquiries from his office, that includes repeated refusals to provide documents until review by an attorney.⁶

After news reports emerged about the letter, the Secret Service released a statement claiming that “the insinuation that the Secret Service maliciously deleted text messages following a request is false.”⁷ The statement further maintained that the Secret Service has been “fully cooperating” with the DHS OIG “in every respect – whether it be interviews, documents,

² Letter from Inspector General Joseph V. Cuffari to Sens. Gary C. Peters and Rob Portman and Reps. Bennie g. Thompson and John Katko, July 13, 2022 (“Cuffari Letter”), <https://twitter.com/NicoleSganga/status/1547699110915895299/photo/1>; Maria Sacchetti and Carol D. Leonnig, *Secret Service erased texts from Jan. 5 and 6, 2021, official says*, *Washington Post*, July 14, 2022, <https://www.washingtonpost.com/national-security/2022/07/14/secret-service-texts-erased/>. *See also* Ken Klippenstein, *Secret Service Deleted Jan. 6 Text Messages After Oversight Officials Requested Them*, *The Intercept*, July 14, 2022, <https://theintercept.com/2022/07/14/jan-6-texts-deleted-secret-service/>; Luke Broadwater, *Secret Service Text Messages Around Jan. 6 Were Erased, Inspector General Says*, *New York Times*, July 14, 2022, <https://www.nytimes.com/2022/07/14/us/politics/secret-service-text-messages-jan-6.html>.

³ Cuffari Letter.

⁴ Broadwater, *New York Times*, July 14, 2022.

⁵ Cuffari Letter; Sacchetti & Leonnig, *Washington Post*, July 14, 2022.

⁶ Cuffari Letter; Sacchetti & Leonnig, *Washington Post*, July 14, 2022.

⁷ Guglielmi Statement.

emails, or texts.”⁸ Inspector General Cuffari’s letter calls those claims into question, and his office has now initiated a criminal probe into the missing text messages.⁹

The missing emails concern a period of time in which supporters of former President Donald Trump engaged in a violent attack on the U.S. Capitol at the urging of the former President and engaged in other efforts to overturn the results of the 2020 presidential election. Testimony provided the Select Committee to Investigate the January 6th Attack on the United States Capitol revealed that the Secret Service played a critical role during the January 6th insurrection. For example, former White House aide Cassidy Hutchinson testified she was told that President Trump “lunged” at his lead Secret Service agent” after being told “it was too dangerous for him to go” to the Capitol where he had directed the assembled and armed mob to go after his speech on the ellipse.¹⁰ The Committee also has received evidence that then-Vice President Mike Pence refused to get in a car with the Secret Service after rioters entered the Capitol, reportedly fearing they would take him “to a secure location where he would be unable to certify the presidential election results[.]”¹¹ Despite the importance in the Committee’s investigation of evidence corroborating these events, according to the Inspector General’s letter to Congress, “key evidence in the form of the Secret Service’s electronic communications may never see the light of day.”¹²

The requested records will shed light on whether the deletion of the text messages violated agency policy and directives concerning the planned migration and recordkeeping responsibilities of departing employees, information that will help the public evaluate the actions of the Secret Service in deleting critical evidence and the claims of the agency’s chief watchdog concerning the legality of those actions.

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 the activities of government officials, to ensuring the integrity of those officials. CREW uses a combination of research, litigation, and advocacy to advance its mission. 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 U.S.C. §552(a)(4)(A)(ii)(II) because CREW qualifies as a member of the news media. *See Nat’l Sec. Archives 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

⁸ *Id.*

⁹ *See, e.g.*, Maria Sacchetti and Carol D. Leonnig, *Watchdog launches criminal probe over missing Secret Service messages*, *Washington Post*, July 21, 2022, <https://www.washingtonpost.com/national-security/2022/07/21/oig-secret-service-texts/>; Zolan Kanno-Youngs and Maggie Haberman, *Watchdog Informs Secret Service of Criminal Inquiry Into Missing Texts*, *New York Times*, July 21, 2022, <https://www.nytimes.com/2022/07/21/us/politics/secret-service-criminal-inquiry-missing-texts.html>.

¹⁰ Broadwater, *New York Times*, July 14, 2022.

¹¹ Klippenstein, *The Intercept*, July 14, 2022.

¹² *Id.*

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 to educate the public about these issues. In addition, CREW posts documents it receives under the FOIA on its website.

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

Request for Expedition

CREW also requests that the Secret Service expedite the processing of this FOIA request because there is “an urgency to inform the public about an actual or alleged federal government activity” and CREW is “primarily engaged in disseminating information[.]” 6 C.F.R. §5.5(e)(1)(ii). There is a particularly urgent need to inform the public about the extent to which key evidence in ongoing congressional and criminal investigations was destroyed illegally and contrary to agency directives and policy. This urgency is heightened by the public dispute between the Secret Service and the DHS Inspector General concerning the missing text messages. The existence of numerous articles discussing the deletion of the Secret Service records, some of which are cited herein, also illustrates the urgency to inform the public. *See* 6 C.F.R. §5.5(e)(3).

Further, as explained above, CREW is “primarily engaged in disseminating information” to the public. As explained, CREW’s primary purpose is to inform and educate the public about the activities of government officials and those who influence public officials. To that end, CREW uses statutes like the FOIA to gather information the public needs to hold public officials accountable and disseminates this information through social media and its website, www.citizensforethics.org, which receives tens of thousands of views every month.

Pursuant to 6 C.F.R. §5.5(e)(2) CREW is separately requesting expedition from the Senior Director of FOIA Operations because there is a matter of widespread and exceptional media interest in which there exist possible questions about the government’s integrity affecting public confidence.

The undersigned certifies that the above statement is true and correct.

Conclusion

If you have any questions about this request or foresee any problems in fully releasing the requested records, please contact Eden Tadesse at foia@citizensforethics.org. Also, if CREW’s requests for a fee waiver or expedited processing are denied, please contact me immediately upon making such a determination at weismann.anne@gmail.com.

Where possible, please produce records in electronic format. Please send the requested records to Eden Tadesse at foia@citizensforethics.org or 1331 F Street, N.W., Suite 900, Washington, D.C. 20004.

Sincerely,

A handwritten signature in black ink, appearing to read "Anne L. Weismann". The signature is fluid and cursive, with a small horizontal line at the end.

Anne L. Weismann