



CITIZENS FOR  
RESPONSIBILITY &  
ETHICS IN WASHINGTON

June 8, 2022

**SUBMITTED VIA ONLINE FORM**

FOIA Officer  
U.S. Customs and Border Protection  
FOIA Division  
90 K Street NE  
Washington, DC 20229

Re: Freedom of Information Act Request

Dear FOIA Officer:

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 Homeland Security regulations.

Specifically, CREW requests the following:

1. All communications sent or received by Border Patrol Agent Brandon Judd, from January 1, 2020 to the date this request is processed, mentioning any of the following terms:
  - “Replacement theory”
  - “Great replacement”
  - “Great replacement theory”
  - “Demographic replacement”
  - “Replaced”
  - “White genocide”
  - “Open border”
  - “Demographic” or “Demographics”
  - “Demographic change”
  - “Change the demographics”
  - “Electorate”
  - “White Americans”
  - “Jews”
  - “Liberal voters”
  
2. All communications from January 1, 2020 to the date this request is processed between Border Patrol Agent Brandon Judd and any employee, agent, or representative of Fox News, including but not limited to Tucker Carlson, Bill Hemmer,

Laura Ingraham, or anyone with an email domain ending in “@foxnews.com” or “@fox.com.”

3. All communications from January 1, 2020 to the date this request is processed between Border Patrol Agent Brandon Judd and any employee, agent, or representative of Newsmax, including but not limited to John Bachman, Greg Kelly, Sean Spicer, or anyone with an email domain ending in “@newsmax.com.”

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 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 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 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).

By way of background, in April Border Patrol agent Brandon Judd appeared on Fox News where he touted the far-right “Great Replacement Theory” to anchor Bill Hemmer.<sup>1</sup> The theory, which has grown increasingly popular on far-right web forums, suggests that Democrats are attempting to skew the electorate to the left and stay in power by weakening the southern border to allow in more Latin American immigrants, changing the

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<sup>1</sup> Carless, Will, “‘Replacement theory’ fuels extremists and shooters. Now a top Border Patrol agent is spreading it,” *USA Today*, May 6, 2022, available at <https://www.usatoday.com/story/news/nation/2022/05/06/great-replacement-theory-border-patrol-racist-talking-point/9560233002/>

demographics of the country by “replacing” white Americans.<sup>2</sup> Judd, who is also the president of the National Border Patrol Council union, criticized the Biden Administration’s immigration policies: “I believe that they’re trying to change the demographics of the electorate; that’s what I believe they’re doing... They want to stay in power, and the only way to stay in power is to continue to stay elected.”<sup>3</sup>

Dehumanizing rhetoric like the great replacement theory can easily lead to violence and is becoming more mainstream. For example, the theory has been cited as inspiration for several racially motivated mass shootings, including last month’s shooting in Buffalo, New York.<sup>4</sup> A recent poll by the Southern Poverty Law Center also found that the majority of Republicans believe in the theory.<sup>5</sup> Judd is a federal employee who is paid by U.S. taxpayers to police the nation’s borders. The requested records will shed light on how prevalent and popular the great replacement theory is within CBP, a matter of significant 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, [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 documents it receives under the FOIA its website, which has been visited hundreds of thousands of times.

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

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<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> Jones, Dustin, “What is the ‘great replacement’ and how is it tied to the Buffalo shooting suspect?,” *NPR*, May 16, 2022, available at <https://www.npr.org/2022/05/16/1099034094/what-is-the-great-replacement-theory>

<sup>5</sup> “Poll finds majority of GOP believes in ‘Great Replacement’ theory,” *MSNBC*, June 5, 2022, available at <https://www.msnbc.com/the-sunday-show/watch/poll-finds-majority-of-gop-believes-in-great-replacement-theory-141485125506>

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**Conclusion**

If you have any questions about this request or foresee any problems in fully releasing the requested records, please contact me at [rjacobs@citizensforethics.org](mailto:rjacobs@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 [rjacobs@citizensforethics.org](mailto:rjacobs@citizensforethics.org). If DHS is not able to provide the records electronically, please contact me to arrange an alternative method of transmission. Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'R Jacobs', is positioned above the typed name.

Rebecca Jacobs  
Senior Researcher