



CITIZENS FOR  
RESPONSIBILITY &  
ETHICS IN WASHINGTON

March 29, 2023

VIA: [FOIA.gov](https://www.foia.gov)

Arla Witte-Simpson  
FOIA Public Liaison  
Executive Office for United States Attorneys  
Department of Justice  
175 N Street, N.E.  
Suite 5.400  
Washington, D.C. 20530-0001

**Re: Freedom of Information Act Request**

Dear FOIA Officers:

Citizens for Responsibility and Ethics in Washington (“CREW”) submits this request for records and request for expedited processing 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 full case file of the United States Attorney’s Office for the District of Columbia for *United States v. Derrick Evans*, 21-cr-337 (D.D.C), including but not limited to any video evidence or other evidence documenting Evans’ actions or around January 6, 2021.

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 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).

On January 6, 2021, a violent mob of Trump supporters stormed the U.S. Capitol building to prevent Congress's constitutionally mandated counting of electoral votes and certification of the 2020 presidential election, leading to several deaths, numerous injuries, defacement of government property, and removal of sensitive government records. The attack was the most significant breach of the Capitol building since the War of 1812. Among the hundreds of individuals arrested and charged for breaching restricted Capitol grounds was West Virginia Delegate Derrick Evans, who recorded himself breaching the Capitol.

On January 6th, having recently taken an oath to uphold the Constitution, Derrick Evans stormed the U.S. Capitol building.<sup>1</sup> The former member of the West Virginia House of Delegates live-streamed himself in the Capitol, shouting "Derrick Evans is in the Capitol," as the mob breached the building.<sup>2</sup> Prior to January 6th, Evans urged his followers to travel to Washington, D.C. to "fight for Trump" and posted information about charter buses to get to D.C.<sup>3</sup> Evans later resigned from public office and pled guilty to a felony charge in which, as part of his plea agreement, he admitted to joining the mob, breaching the Capitol, obstructing law enforcement during a civil disorder, and disrupting the certification of the 2020 presidential election.<sup>4</sup> On January 6th, 2023, two years after Evans joined the mob that violently breached the Capitol, Evans announced his plans to run for Congress for West Virginia's 1st district.<sup>5</sup>

Given the extraordinary nature of the events of January 6th, Evan's participation in those events, and the fact that Evans intends to run for public office as a convicted January 6th rioter in West Virginia, there is an urgent and compelling public interest in disclosure of the requested records – particularly any video evidence of Evans' activities and conduct on January 6th.

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<sup>1</sup> Cuneyt Dill, West Virginia delegate records himself storming the U.S. Capitol, *Associated Press*, Jan. 6, 2021,

<https://apnews.com/article/social-media-electoral-college-west-virginia-media-7c5635060b39f41337229511a26ed61d>.

<sup>2</sup> See *id.*

<sup>3</sup> See *id.*

<sup>4</sup> See *id.*

<sup>5</sup> Andrew Beaujon, Convicted January 6th Rioter Derrick Evans Plans a Run for Congress, *Washingtonian*, Jan. 6, 2023,

<https://www.washingtonian.com/2023/01/06/convicted-january-6-rioter-derrick-evans-plans-a-run-for-congress/>.

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 blog posts 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 the documents it receives under the FOIA on its website.

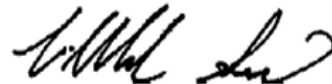
Under these circumstances, CREW satisfies fully the criteria for a fee waiver.

### **Conclusion**

If you have any questions about this request or foresee any problems in fully releasing the requested records, please contact Nikhel Sus at [nsus@citizensforethics.org](mailto:nsus@citizensforethics.org) or (202) 408-5565. 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 [nsus@citizensforethics.org](mailto:nsus@citizensforethics.org) or, Citizens for Responsibility and Ethics in Washington, [REDACTED]

Sincerely,



Nikhel Sus  
Senior Counsel



Caroline Jones  
Legal Intern