



CITIZENS FOR  
RESPONSIBILITY &  
ETHICS IN WASHINGTON

December 14, 2023

SUBMITTED VIA [FOIA STAR](#)

Douglas Hibbard  
Chief, Initial Request Staff  
Office of Information Policy  
Department of Justice  
6th Floor  
441 G Street, NW  
Washington, DC 20530

Re: Freedom of Information Act Request

Dear Mr. Hibbard:

On behalf of Citizens for Responsibility and Ethics in Washington (“CREW”) I submit 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:

- 1) Any and all draft versions of Special Counsel John Durham’s interim Report on Matters Related to Intelligence Activities and Investigations Arising Out of the 2016 Presidential Campaigns, including but not limited to any versions containing markups, notes, or corrections, from October 24, 2019 to November 3, 2020.
- 2) All communications sent or received by then-Counsel to the U.S. Attorney Nora Dannehy regarding her September 11, 2020 resignation from the Department of Justice, including but not limited to communications containing mentions of the Russia inquiry, then-Attorney General William Barr, Special Counsel Durham, and President Donald Trump, from October 24, 2019, to November 3, 2020.

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 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).

By way of background, now-Connecticut Supreme Court Justice Nora Dannehy testified during her confirmation hearing that she quit the Durham investigation and resigned from the DOJ after seeing Durham's draft interim report.<sup>1</sup> In her first time speaking publicly about her resignation, Dannehy said she saw Attorney General William P. Barr as improperly pressuring the investigation and that she "strongly disagreed" with the conclusions in the draft interim report.<sup>2</sup> Furthermore, she testified that Barr pushed for the report to be finished before the investigation was complete, violating "long, long standing principles" of the DOJ.<sup>3</sup> Dannehy served as deputy to Durham in his investigation of the origins of the FBI's inquiry into Russian collusion with Trump's 2016 presidential campaign and whether intelligence officials "abused their power" by attempting to influence the investigation.<sup>4</sup> Dannehy's "non-partisan" reputation lent a "vener of legitimacy" to the investigation and assuaged concerns that Barr was "conducting a sham

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<sup>1</sup> Mark Pazniokas, "Nora Dannehy says Barr meddled in Trump-Russia probe," *CT Mirror*, September 20, 2023, <https://ctmirror.org/2023/09/20/nora-dannehy-ct-supreme-court-trump-doj-investigation/>

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

<sup>3</sup> Charlie Savage, X, September 21, 2023, [https://twitter.com/charlie\\_savage/status/1704918236746158320](https://twitter.com/charlie_savage/status/1704918236746158320)

<sup>4</sup> Charlie Savage, Adam Goldman and Katie Benner, "How Barr's Quest to Find Flaws in the Russia Inquiry Unraveled," *New York Times*, January 26, 2023, <https://www.nytimes.com/2023/01/26/us/politics/durham-trump-russia-barr.html>

investigation designed to bolster Donald Trump's presidency."<sup>5</sup> She resigned without public comment in September 2020, at the time raising questions about dissent within the investigation.<sup>6</sup>

Investigations involving elections should be treated with the highest level of scrupulousness and impartiality. The public has a right to know whether this important investigation was carried out in an objective and apolitical manner.

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](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 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 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.

### **Conclusion**

If you have any questions about this request or foresee any problems in fully releasing the requested records, please contact [rjacobs@citizensforethics.org](mailto:rjacobs@citizensforethics.org) and [foia@citizensforethics.org](mailto: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.

Where possible, please produce records in electronic format. Please send the requested records to [rjacobs@citizensforethics.org](mailto:rjacobs@citizensforethics.org) and [foia@citizensforethics.org](mailto:foia@citizensforethics.org) or by mail at Rebecca Jacobs, Citizens for Responsibility and Ethics in Washington, 1331 F Street, N.W., Suite 900, Washington, D.C. 20004.

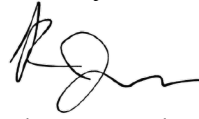
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<sup>5</sup> Liam Brennan, "Danney Resignation Confirms Barr's Intent to Use Durham Probe for Political Ends," *Just Security*, September 12, 2020, <https://www.justsecurity.org/72414/dannehy-resignation-confirms-barrs-intent-to-use-durham-probe-for-political-ends/>

<sup>6</sup> Pazniokas, September 20, 2023

December 14, 2023  
Page 4

Sincerely,

A handwritten signature in black ink, appearing to read 'RJ', with a stylized flourish extending to the right.

Rebecca Jacobs  
Senior Researcher