



January 25, 2023

By email: usdoj-officeoflegalcounsel@usdoj.gov

Melissa Golden
FOIA Specialist
U.S. Department of Justice
Office of Legal Counsel
Room 5517
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530-0001

Re: Freedom of Information Act Request

Dear Ms. Golden:

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 all opinions, memoranda, or analyses issued by the Office of Legal Counsel ("OLC") concerning Section 3 of the Fourteenth Amendment. Under that provision no individual who engages in insurrection or rebellion against the Constitution—after having previously taken an oath to support it—shall hold any federal or state office (unless Congress, by vote of two-thirds in each house, removes such disability).

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-

[REDACTED]

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, DOJ 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 28 C.F.R. § 16.10, 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).

The violent insurrection on January 6, 2021, and the role of former President Donald Trump in the attack on the U.S. Capitol have prompted not only congressional and criminal investigations but also great public scrutiny of former President Trump's fitness and eligibility to again hold the office of President of the United States. Now that former President Trump has announced his intention to run again for the presidency in 2024, the question of whether Section 3 of the Fourteenth Amendment disqualifies him from holding office has even greater resonance and importance. As the office within the executive branch charged with interpreting the meaning of our laws and Constitution OLC's views on this subject carry great weight within DOJ and publicly. The records CREW seeks would provide those views are therefore are of enormous public importance. The records also will shed light on the extent to which DOJ has been engaged in this issue and understands the role it should play in determining former President Trump's fitness and eligibility for federal office.

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 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 Eden Tadesse at [REDACTED]. Also, if CREW’s requests for a fee waiver or expedited processing are denied, please contact me immediately upon making such a determination at [REDACTED]

Where possible, please produce records in electronic format. Please send the requested records to Eden Tadesse at [REDACTED] or [REDACTED]
[REDACTED]

Sincerely,

/s/ Anne L. Weismann
Anne L. Weismann