

February 9, 2022

Sent via FOIAonline.gov portal

Gary M. Stern
Chief FOIA Officer
National Archives and Records Administration
8601 Adelphi Road, Room 3110
College Park, MD 20740-6001

RE: Freedom of Information Act Request

Dear Mr. Stern:

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 National Archives and Records Administration ("NARA") regulations.

Specifically, CREW requests the following records:

1. All records from January 20, 2021 to the date this request is processed reflecting any referrals by NARA to the Department of Justice relating to Trump White House Presidential records.
2. All communications from January 20, 2021 to the date this request is processed between NARA staff and former President Donald J. Trump or his representatives (including his agents and counsel) relating to Mr. Trump's compliance with the Presidential Records Act ("PRA"). This request includes, but is not limited to, communications concerning efforts to recover documents and other items that were not transferred to NARA from the White House at the end of the Trump Administration in January 2021, and records torn, shredded, or otherwise mutilated by Mr. Trump while in office.

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, as well as emails to which the subjects of this request were cc'ed or bcc'ed.

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).

Fee Waiver Request

In accordance with 5 U.S.C. § 552(a)(4)(A) and NARA 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).

According to the *Washington Post* and other news reports, in January 2022, NARA retrieved 15 boxes of documents and other items from former President Trump's Mar-a-Lago residence that should have been provided to the agency at the end of the Trump administration but were not.¹ The documents recovered from former President Trump reportedly include mementos, gifts, letters from world leaders and other correspondence, including letters exchanged between former President Trump and North Korean leader Kim Jong Un as well as a letter former President Barack Obama left for former President Trump when he took office.² In a statement provided to the *Washington Post* and other news outlets, NARA said the "records should have been transferred to NARA from the White House at the end of the Trump Administration in January 2021" and that the former President Trump's representatives were "continuing to search" for more records that should have been turned over but have not been.³ According to the *New York Times*, Mr. Trump returned the documents "after several months of back and forth between his lawyers and the National Archives."⁴

Multiple news stories also reported that, despite repeated warnings from top White House officials that his conduct violated the PRA, President Trump regularly mutilated government records by shredding or tearing them. As NARA recently asserted, the trove of records it turned over to the Select Committee to Investigate the January 6th Attack on the

¹ Jacqueline Alemany, Josh Dawsey, Tom Hamburger, and Ashley Parker, National Archives had to retrieve Trump White House records from Mar-a-Lago, *Washington Post*, Feb. 7, 2022, <https://www.washingtonpost.com/politics/2022/02/07/trump-records-mar-a-lago/>.

² *Id.*

³ Alemany, Dawsey, Hamburger, and Parker, *Washington Post*, Feb. 7, 2022; Michael S. Schmidt and Maggie Haberman, Trump Gives Documents Improperly Taken from White House to Archives, *New York Times*, Feb. 7, 2022, <https://www.nytimes.com/2022/02/07/us/politics/trump-national-archives-documents.html>.

⁴ *Id.*

United States Capitol “includ[ed] those that were torn up and reconstructed.”⁵ Records the Trump administration turned over to NARA at the end of the administration as part of his presidential papers also included “a number of torn-up records that had not been reconstructed by the White House.”⁶

The revelations that NARA had to physically retrieve multiple boxes of records from former President Trump and that he routinely mutilated records by shredding or tearing them underscores his and his administration’s flagrant flouting of laws and procedures meant to preserve government records.⁷ Sources told the *Washington Post* that the amount of records retrieved from former President Trump’s possession made his White House stand apart from other recent administrations’ at times questionable compliance with the PRA.⁸ “NARA has never had that kind of volume transfer after the fact like this,” an individual familiar with the retrieval said.⁹

The requested records will shed light on the extent of former President Trump’s failure to transfer documents to NARA at the end of his term in office as required by the PRA, as well as his disregard for the law shown by his mutilation of presidential records. The records will also contribute to greater public understanding of the efforts made by NARA and the resources the agency has been forced to expend to recover and reconstruct documents from former President Trump. As Archivist of the United States David S. Ferriero said in his statement regarding the recovery of the 15 boxes from Mar-a-Lago, the PRA “is critical to our democracy, in which the government is held accountable by the people. Whether through the creation of adequate and proper documentation, sound records management practices, the preservation of records, or the timely transfer of them to the National Archives at the end of an Administration, there should be no question as to need for both diligence and vigilance. Records matter.”¹⁰

CREW is a non-profit organization, 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, and other means. In addition, 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.

⁵ Jacqueline Alemany, Josh Dawsey, Amy Gardner, and Tom Hamburger, Some records sent to Jan. 6 committee were torn up, taped back together—mirroring a Trump habit, *Washington Post*, Jan. 31, 2022, <https://www.washingtonpost.com/nation/2022/01/31/trump-ripped-up-documents/>.

⁶ *Id.*

⁷ *Id.*; Ashley Parker, Josh Dawsey, Tom Hamburger, and Jacqueline Alemany, ‘He never stopped ripping things up’: Inside Trump’s relentless document destruction habits, *Washington Post*, Feb. 5, 2022, <https://www.washingtonpost.com/politics/2022/02/05/trump-ripping-documents/>.

⁸ Alemany, Dawsey, Hamburger, and Parker, *Washington Post*, Feb. 7, 2022.

⁹ *Id.*

¹⁰ *Id.*

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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. Sec. Archive v. U.S. Dept. 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, which has been visited hundreds of thousands of times.

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 me at (202) 408-5565 or [REDACTED]. 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 [REDACTED] or Adam Rappaport, Citizens for Responsibility and Ethics in Washington, [REDACTED]. Thank you for your assistance.

Sincerely,



Adam Rappaport