



CITIZENS FOR  
RESPONSIBILITY &  
ETHICS IN WASHINGTON

Jul 23, 2021

Amanda M. Jones  
Chief, FOIA/PA Unit  
Criminal Division  
Suite 1127, Keeney Building  
Washington, D.C. 20530  
[crm.foia@usdoj.gov](mailto:crm.foia@usdoj.gov)

**Re: Freedom of Information Act Request**

Dear FOIA Officer:

Citizens for Responsibility and Ethics in Washington (“CREW”) submits 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. All records relating to the U.S. Department of Commerce Office of Inspector General (“Commerce OIG”) referral to DOJ’s Public Integrity Section concerning its findings that former Secretary of Commerce Wilbur Ross “misrepresented the full rationale for the reinstatement of the citizenship question” in the 2020 Decennial Census “during his March 20, 2018, testimony before the House Committee on Appropriations and again in his March 22, 2018, testimony before the House Committee on Ways and Means.”<sup>1</sup>
2. All records relating to DOJ’s decision to decline prosecution of Wilbur Ross following the Commerce OIG’s referral, including but not limited to records reflecting the final decision not to prosecute Mr. Ross and the rationale for that decision.

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, and anyone who was cc’ed or bcc’ed on any emails.

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

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<sup>1</sup><https://www.oig.doc.gov/OIGPublications/Inspector-General-Letter-to-Majority-Leader-Charles-Schumer-and-Chairwoman-Carolyn-Maloney-re-OIG-Case-No-19-0728.pdf>



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*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 rights under FOIA. Accordingly, because litigation is reasonably foreseeable, the agency should institute an agencywide preservation hold on all 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 *id.* § 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 July 16, 2021, it was reported that DOJ declined to prosecute former Secretary of Commerce Wilbur Ross following a referral to the Public Integrity Section of DOJ's Criminal Division by the Department of Commerce Office of Inspector General concerning its investigation finding that Ross provided false or misleading testimony before Congress in March 2018.<sup>2</sup> DOJ's decision to decline prosecution of Ross was revealed in a letter to Congress dated July 15, 2021, written by Commerce Department Inspector General Peggy Gustafson in which she stated that OIG found that Ross "misrepresented the full rationale" for proposing the addition of a citizenship question to the 2020 Decennial Census.<sup>3</sup> Although Ross testified before Congress that the inclusion of the citizenship question was solely due to a request by DOJ, the OIG investigation discovered evidence "that there were significant communications related to the citizenship question among the then-Secretary, his staff, and other government officials between March 2017 and September 2017, which was well before the DOJ request memorandum."<sup>4</sup> Many questions remain as to why DOJ declined to prosecute former-Secretary Ross in light of OIG's findings, especially

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<sup>2</sup> Eric Katz, [DOJ Will Not Prosecute Trump Officials After IG Referred Findings of False Testimony on Census](https://www.govexec.com/management/2021/07/doj-will-not-prosecute-trump-officials-after-ig-referred-findings-false-testimony-census/183843/), *Government Executive*, July 16, 2021, <https://www.govexec.com/management/2021/07/doj-will-not-prosecute-trump-officials-after-ig-referred-findings-false-testimony-census/183843/>.

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

<sup>4</sup> *Id.*



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considering that OIG's report has not been released to the public. The requested records will shed light on these matters of considerable 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 disseminates information obtained through FOIA to the public in several ways. For example, CREW's website receives hundreds 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. These reports frequently rely on government records obtained through FOIA. CREW also posts the documents it obtains through 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 me at (202) 408-5565 or [REDACTED]. Also, if CREW's request for a fee waiver is denied, please contact our office immediately upon making such a determination.

# CREW

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Where possible, please produce records in electronic format. Please send the requested records to me at either [REDACTED] or Laura Iheanachor, Citizens for Responsibility and Ethics in Washington, [REDACTED]  
[REDACTED]

Sincerely,



Laura Iheanachor  
Staff Counsel