CREW

CITIZENS FOR
RESPONSIBILITY &
ETHICS IN WASHINGTON

December 2, 2022

Submitted via online portal

FOIA Officer
U.S. Customs & Border Protection
90 K ST NE MS 1181
Washington DC 20229

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 Homeland Security ("DHS") regulations..

Specifically, CREW requests:

1. All records from January 6, 2021 to the date this request is processed reflecting any Customs & Border Protection employee's potential or actual sympathy toward, biases in favor of, or favorable views of individuals who attacked the United States Capitol on January 6, 2021.

2. All records from January 6, 2021 to the date this request is processed reflecting concerns by Custom & Border Protection personnel regarding Customs & Border Protection employees' potential or actual sympathy toward, biases in favor of, or favorable views of individuals who attacked the United States Capitol on January 6, 2021.

3. All communications within the Customs & Border Protection from January 1, 2021, to the date this request is processed including the following terms:
    - "1488"
    - "8814"
    - "311"
    - "6MWE"
    - "(((“
    - "Skypes"
    - "Googles"
    - "Yahoos"
    - "Skittles"

- "Boogaloo"
- "Blackpilled"
- "Blackpill"
- "Red pill"
- "Cuck"
- "Globalism"
- "Dindu Nuffins"
- "Goy"
- "#OperationGoogle"
- "Cuckold"
- "Cuck"
- "Soy boy"
- "Beta male"
- "Snowflake"
- "Social-justice warrior"
- "SJW"
- "Gender studies"
- "#Milk"
- "#MilkTwitter"
- "Ancestral homeland"
- "Vinland"
- "Deus Vult"
- "Black supremacist extremists"
- "Lawfully organized white supremacist events"
- "Bloodthirsty group"
- "Amren"
- "Judenfrei"
- "White advocate"
- "NPI"
- "Anti-cop"
- "Marxist"
- "Quiet patriot"
- "Boog bois"
- "China flu"
- "CPT"
- "White homeland"
- "downplay appearances of racism"
- "Didus"
- "European Americans"
- "Tonk"
- "MOSD"
- "PBG"

The above request excludes agency records consisting solely of news articles, press clippings, and other publicly available material, so long as the records include no accompanying discussion by officials.

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).

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).

By way of background, on October 14, 2022, NBC News reported that one week after the attack on the United States Capitol on January 6, 2021, the FBI received an email "expressing concern that some bureau employees might not be particularly motivated to help bring to justice the rioters who stormed the U.S. Capitol and threatened lawmakers' lives."[1] The individual in the email also wrote that he or she "had to explain to an agent from a 'blue state' office the difference between opportunists burning & looting during protests that stemmed legitimate grievance to police brutality vs. an insurgent mob whose purpose

[1] Reilly, Ryan J. and Ken Dilanian. "FBI official was warned after Jan. 6 that some in the bureau were 'sympathetic' to the Capitol rioters." *NBC News.* October 14, 2022. https://www.nbcnews.com/politics/justice-department/fbi-official-was-warned-jan-6-bureau-sympathetic-capitol-rioters-rcna52144

was to prevent the execution of democratic processes at the behest of a sitting president."[2] The individual also wrote that that an official in one FBI office in a "red state" said that "over 70% of his CT squad + roughly 75% of the agent population in his office, disagreed with the violence 'but could understand where the frustration was coming from' which led to the 'protestors getting carried away.'"[3]

The expression of sympathies towards insurrectionists in the FBI raises concerns that other federal law enforcement agents, such as Customs & Border Protection officers, might share similar sentiments. Customs & Border Protection agents are federal employees who are paid by U.S. taxpayers to enforce the law and uphold the constitution for all Americans. The requested records will shed light on Customs & Border Protection agents' communications on and views of the capitol attack on January 6, 2021. Whether or not Customs & Border Protection agents are unbiased is of great 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. 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.

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[2] Reilly, Ryan J. and Ken Dilanian. "FBI official was warned after Jan. 6 that some in the bureau were 'sympathetic' to the Capitol rioters." *NBC News.* October 14, 2022. https://www.nbcnews.com/politics/justice-department/fbi-official-was-warned-jan-6-bureau-sympathetic-capitol-rioters-rcna52144

[3] Reilly, Ryan J. and Ken Dilanian. "FBI official was warned after Jan. 6 that some in the bureau were 'sympathetic' to the Capitol rioters." *NBC News.* October 14, 2022. https://www.nbcnews.com/politics/justice-department/fbi-official-was-warned-jan-6-bureau-sympathetic-capitol-rioters-rcna52144

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 email me at [redacted] and foia@citizensforethics.org or call me at (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 [redacted], and foia@citizensforethics.org or by mail to Sandra Blackmun, Citizens for Responsibility and Ethics in Washington, [redacted].

Sincerely,

Sandra Blackmun
Graduate Research Intern