CREW

CITIZENS FOR
RESPONSIBILITY &
ETHICS IN WASHINGTON

November 11, 2022

Kevin Krebs
Assistant Director, FOIA/Privacy Staff
Executive Office for United States Attorneys
Department of Justice
175 N Street, NE
Suite 5.400
Washington, DC 20530-0001

Re: Freedom of Information Act Request

Dear FOIA Officer:

Citizens for Responsibility and Ethics in Washington ("CREW") submits this request for records from the U.S. Attorney's Office for the Southern District of Florida ("USAO-SDFL") 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 from October 1, 2018 to November 30, 2018 relating to any order, instruction, directive, or proposal by then-President Donald Trump, then-Attorney General Jeff Sessions, FBI Director Christopher Wray, or former U.S. Attorney for the Southern District of Florida Ariana Fajardo Orshan to deploy federal law enforcement personnel to Broward County, Florida in connection with the 2018 election.

2. All records from October 1, 2018 to November 30, 2018 relating to any deployment of federal law enforcement personnel to Broward County, Florida in connection with the 2018 election.

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 agency 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, 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 *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973). In the event 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).

On November 10, 2022, former President Donald Trump posted on Truth Social that during the 2018 election, he "sent in the FBI and the U.S. Attorneys" to Broward County, Florida to stop votes from "being stolen" from now-Governor Ron DeSantis and now-Senator Rick Scott.[1] The former President alleges that after he sent in federal law enforcement, "the ballot theft immediately ended, just prior to them running out of the votes necessary to win" and thus claims he "stopped [the] Election from being stolen" from DeSantis and Scott.[2] The requested records will shed light on whether the former President did in fact deploy federal law enforcement personnel to interfere with election officials' counting of ballots in order to sway the election in favor of his political allies—an issue of substantial 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

[1] Ewan Palmer, *Donald Trump Says He 'Sent in the FBI' To Stop Ron DeSantis Losing Election*, Newsweek, Nov. 11, 2022, https://www.newsweek.com/trump-desantis-statement-fbi-2018-florida-election-stolen-1758853.
[2] *Id.*

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 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 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 CREW has published to educate the public about these issues. In addition, CREW posts 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 me at either [redacted] or Nikhel Sus, Citizens for Responsibility and Ethics in Washington, [redacted]. Thank you for your assistance.

Sincerely,

Nikhel Sus
Senior Counsel