

March 6, 2017

BY FACSIMILE: (202) 514-1009

Laurie Day
Chief, Initial Request Staff
Office of Information Policy
Department of Justice
Suite 11050
1425 New York Ave., N.W.
Washington, D.C. 20530-0001

Re: Expedited Freedom of Information Act Request

Dear Ms. Day:

Citizens for Responsibility and Ethics in Washington (“CREW”) makes this expedited request for records pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, and Department of Justice (“DOJ”) regulations.

First, CREW requests copies of all records containing or reflecting advice and/or recommendations given to Attorney General Jeff Sessions by his staff regarding whether or not he should recuse himself in any matters involving the 2016 presidential campaign.

Second, CREW requests copies of all calendars for Attorney General Sessions for the period February 27, 2017 through March 3, 2017.

Third, CREW requests copies of all documents effectuating the attorney general’s recusal within the Department of Justice.

Please search for records regardless of format, medium, or physical characteristics. We seek records of any kind, including electronic records, audiotapes, videotapes, calendars, photographs, and graphical material. Where possible, please produce records electronically, in PDF or TIF format, on a CD-ROM.

If it is your position any portion of the requested records is exempt from disclosure, CREW requests that you provide an index of those documents as required under *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973), *cert. denied*, 415 U.S. 977 (1972). 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

Laurie Day
March 6, 2017
Page Two

document is non-exempt, and how the material is dispersed throughout the document. *Mead Data Central*, 566 F.2d at 261.

Finally, CREW welcomes the opportunity to discuss with you whether and to what extent this request can be narrowed or modified to better enable your office to process it within the FOIA's deadlines.

Fee Waiver Request

In accordance with 5 U.S.C. § 552(a)(4)(A)(iii) and 28 C.F.R. § 16.11(k), 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. Moreover, the request primarily and fundamentally is for non-commercial purposes. 5 U.S.C. § 552(a)(4)(A)(iii). *See, e.g., McClellan Ecological v. Carlucci*, 835 F.2d 1282, 1285 (9th Cir. 1987).

As has been widely reported, during his confirmation hearing Attorney General Sessions denied having any contacts with Russians during the 2016 presidential campaign. Last week it was revealed that, in fact, the attorney general had two separate contacts with Russian Ambassador Sergey Kislyak, including at the Republican National Convention.¹ Less than 24 hours after these revelations, Attorney General Sessions announced he was recusing himself ““from any existing or future investigations of any matter relating in any way to the campaigns for president of the United States.””² Significantly, the attorney general stated he made the decision to recuse himself after being told by his staff, “since I had involvement with the campaign, I should not be involved in any campaign investigation.” *Id.* Further, he claimed the meeting at which recusal was to be discussed already had been set for March 2 during a meeting held on February 27, 2017. *Id.*

The requested records are likely to contribute to public understanding of the true motivation behind Attorney General Sessions's recusal decision, the extent to which it was guided by advice from his staff, and the extent to which it was influenced by the public revelation he had not testified fully and truthfully before Congress during his

¹ *See, e.g., Karoun Demirjian, Ed O'Keefe, Sari Horwitz and Matt Zapposky, Attorney General Jeff Sessions Will Recuse Himself From Any Probe Related to 2016 Presidential Campaign, Washington Post, Mar. 2, 2017 (available at https://www.washingtonpost.com/powerpost/top-gop-lawmaker-calls-on-sessions-to-recuse-himself-from-russia-investigation/2017/03/02/148c07ac-ff46-11e6-8ebe-6e0dbe4f2bca_story.html?utm_term=.1ecc6c71f2a5).*

² Aaron Blake, *Transcript of Jeff Sessions's Recusal News Conference, Annotated, Washington Post, Mar. 2, 2017, quoting Attorney General Jeff Sessions (available at https://www.washingtonpost.com/news/the-fix/wp/2017/03/02/transcript-of-jeff-sessions-recusal-press-conference-annotated/?utm_term=.1e45958eba88).*

Laurie Day
March 6, 2017
Page Three

confirmation hearing. The public interest in the integrity and honesty of the nation's top law enforcement official could not be greater.

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 and to ensuring the integrity of those officials. 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 highlight outside influences that bear on the decisions of public officials. 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, and through www.scribd.com. The release of information obtained through this request is not in CREW's financial interest.

CREW also asks that it not be charged search or review fees for this request pursuant to the FOIA and DOJ regulation 28 C.F.R. § 16.10 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 each month. The website includes a blog that reports on and analyzes 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 all of the documents it receives under the FOIA at www.scribd.com, and those documents have been visited hundreds of thousands of times.

Under these circumstances, CREW satisfies fully the criteria for a fee waiver.

Request for Expedition

Finally, please be advised that CREW also has requested expedition of this request because its subject matter is of widespread and exceptional media interest and the requested information involves possible questions about the government's integrity that affect public confidence. Pursuant to 28 C.F.R. § 16.5(e)(2), CREW submitted that request to the Director of Public Affairs; a copy of this request is enclosed.

Laurie Day
March 6, 2017
Page Four

Conclusion

If you have any questions about this request or foresee any problems in releasing fully the requested records, please contact me at (202) 408-5565 or aweismann@citizensforethics.org. Also, if CREW's request for a fee waiver is not granted in full, please contact me immediately upon making such determination. Please send the requested records to me at either aweismann@citizensforethics.org or Anne Weismann, Citizens for Responsibility and Ethics in Washington, 455 Massachusetts Ave., N.W., 6th Floor, Washington, D.C. 20001. Thank you for your assistance in this matter.

Sincerely,



Anne L. Weismann
Chief FOIA Counsel

Encl.