

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

**CITIZENS FOR RESPONSIBILITY  
AND ETHICS IN WASHINGTON**

Plaintiff,

**V.**

U.S. DEPARTMENT OF JUSTICE,

**Defendant.**

Civil Action No. 18-cv-0007 (TSC)

## **DECLARATION OF DEBORAH M. WALLER**

I, Deborah M. Waller, do hereby declare:

1. I am a Government Information Specialist for the Office of the Inspector General, United States Department of Justice (OIG), Washington, D.C. The OIG is responsible for “[i]nvestigat[ing] allegations of criminal wrongdoing and administrative misconduct on the part of Department [of Justice] employees,” 28 C.F.R. § 0.29a(b)(2), and for auditing and inspecting the programs and operations of the Department and of non-Department entities that contract with or receive benefits from the Department. *Id.* at § 0.29a(b)(1). Due to the nature of my official duties, I am familiar with the procedures followed in processing requests received by the OIG pursuant to 5 U.S.C. § 552, commonly known as the Freedom of Information Act (FOIA), and with the OIG’s responses to the FOIA request at issue in

this case. The statements in this declaration are based upon my personal knowledge and experience and upon information made available to me in the course of my official duties.

**OIG's Search and Processing of Plaintiff's FOIA Request**

2. On December 13, 2017, the OIG received a FOIA request from Anne Weismann at Citizens for Responsibility and Ethics in Washington (CREW) ("Plaintiff"). In the request, Plaintiff sought "all communications concerning the decision to invite reporters to DOJ on December 12, 2017, for the purpose of sharing with them private text messages sent during the 2016 presidential campaign by two former FBI investigators on Special Counsel Robert Mueller's team." Plaintiff's request further sought "documents reflecting who made the decision to release this material to reporters on the evening of December 12, 2017." (OIG Exhibit 1)

3. Plaintiff's request also sought expedited processing. On December 15, 2017, the OIG acknowledged receipt of and responded to Plaintiff's request. In the response, the OIG provided Plaintiff with FOIA request number 18-OIG-069. (OIG Exhibit 2)

4. Because the OIG had just handled a separate inquiry relating to the same subject matter as Plaintiff's request, the OIG was able to immediately locate and release in full one document that was responsive. The released document was a letter, sent by the Michael E. Horowitz, OIG's Inspector General, earlier on December 15, 2017, responding to a Congressional inquiry requesting information about whether OIG was consulted before DOJ shared the FBI text messages in

question with reporters. The OIG also informed Plaintiff that we were continuing to review records responsive to the request and would complete the process as expeditiously as possible.

5. On January 4, 2018, the OIG requested that Inspector General Michael Horowitz, and then-Deputy Inspector General Robert Storch conduct a search for records responsive to Plaintiff's request.

6. The search for responsive records was limited to these individuals because Mr. Horowitz and Mr. Storch stated that the only communications the OIG had with DOJ relevant to the request were between Mr. Storch and then-Associate Deputy Attorney General Scott Schools.

7. Mr. Storch provided potentially responsive materials consisting of handwritten notes.

8. Given their extensive responsibilities and demanding schedules, including Mr. Horowitz's leadership of the OIG and Mr. Storch's confirmation as the Inspector General of the National Security Agency, we did not receive responsive email records from Mr. Horowitz or Mr. Storch. Consequently, on January 31, 2018, the OIG requested that its Cyber Investigations Office (CIO) conduct a search for emails within the OIG that were responsive to the Plaintiff's request.

9. CIO searched for all emails during the time period of December 13, 2017, through December 15, 2017, between then-Deputy Inspector General (DIG) Robert Storch and then-Associate Deputy Attorney General Scott Schools, including messages that DIG Storch forwarded to Inspector General (IG) Michael Horowitz and any responsive emails from IG Horowitz to DIG Storch. CIO searched both Mr.

Storch's and Mr. Horowitz's email accounts during the time frame listed above and used Scott Schools's email address, [sschools@jmd.usdoj.gov](mailto:sschools@jmd.usdoj.gov), as a search term.

10. These search parameters were used because, according to IG Horowitz and then-DIG Storch, and as noted in the responsive records produced in response to Plaintiff's request, the OIG had no advance knowledge of DOJ's decision to "invite reporters to DOJ on December 12, 2017," and did not learn of the decision until December 13, 2017. The only communications the OIG had with DOJ regarding DOJ's decision to "invite reporters to DOJ on December 12, 2017, for the purpose of sharing with them private text messages sent during the 2016 presidential campaign by two former FBI investigators on Special Counsel Robert Mueller's team," were communications beginning on December 13, 2017, with Scott Schools, and the only individuals within the OIG who communicated about the matter were DIG Storch and IG Horowitz. OIG chose December 15, 2017 as the search cut-off because Mr. Horowitz and Mr. Storch indicated that OIG's involvement in communications concerning DOJ's decision to release the FBI texts in question to the media ended on that date.

11. After receiving the results of this email search, OIG conducted a manual review to identify and review the responsive records.

12. In its review, the OIG treated each email contained on a page as an independent record. The OIG reviewed OIP's guidance on this issue and made this decision in part because Plaintiff's FOIA request only sought communications concerning DOJ's decision to invite reporters to view certain FBI text messages on December 12, 2017, and email communications often contain unrelated messages

in the same thread. Treating each email as a separate record allowed the OIG to efficiently process Plaintiff's request. When the OIG conducted its responsiveness review of email threads, it paid close attention to the contents of all email records, including analyzing each email record in context with any previous or subsequent emails, to ensure that it did not overlook responsive records that would have otherwise appeared to be non-responsive out of context.

13. On February 5, 2018, the OIG informed Plaintiff that we referred to the DOJ Office of Information Policy (OIP) two pages of documents because, although the two pages of documents were generated by the OIG, the OIG believed that they contained information of substantial interest to DOJ. We asked OIP to review the documents and inform us whether they believed the documents contained any information exempt from disclosure under the FOIA statute. (OIG Exhibit 3)

14. On February 5, 2018, the OIG informed Plaintiff that we referred the above-referenced two pages of documents to OIP for consultation, and that we would inform it of the determination regarding release of the documents after we heard back from OIP. We also informed the Plaintiff that we were continuing our search for responsive records. (OIG Exhibit 4)

15. On February 12, 2018, the OIG informed the Plaintiff that, as a result of our ongoing search for responsive records, we had located emails consisting of 39 pages. Of the 39 pages, we referred eight additional pages to OIP for consultation because, although generated by the OIG, the OIG believed that these eight pages contained information of substantial interest to DOJ. We also informed Plaintiff that 25 of these 39 pages contained emails that were duplicates of the emails sent

to OIP for consultation. We informed the Plaintiff that the remaining six pages of emails were withheld by the OIG in full, as certain email records in these six pages were non-responsive and the remaining emails, which the OIG treated as separate documents, contained on these six pages were withheld in full under exemption (b)(5) of the FOIA statute as internal OIG communications. We also informed the Plaintiff that we had completed our search for records and that we would provide our final response and determination following the consultation with OIP about the two pages referenced in paragraph 9 and the eight pages referenced above. (OIG Exhibit 5)

16. Also on February 12, 2018, the OIG sent a memo to OIP and provided for consultation the eight pages referenced in paragraph 14 that were responsive to Plaintiff's request. We asked OIP to review these eight pages and inform us whether they believed any of the information contained in the documents was exempt under the FOIA statute. (OIG Exhibit 6)

17. On April 17, 2018, the OIG informed the Plaintiff that after the consultation with OIP regarding the total of ten pages that were referred to OIP, we were producing nine of the pages. We informed Plaintiff that certain information contained in the nine pages being produced was withheld by the OIG pursuant to (b)(5) of the FOIA statute as internal OIG communications (note that other portions of these nine pages were withheld by OIP pursuant to either (b)(5) or (b)(6) of the FOIA statute). We also informed the Plaintiff that we were continuing to consult with OIP regarding the remaining one-page record that had been sent for

consultation and would inform Plaintiff shortly regarding the outcome of that consultation. (OIG Exhibit 7)

18. On April 23, 2018, the OIG provided Plaintiff with a final response. We informed the Plaintiff that after consultation with OIP, we were now producing the remaining one-page document. We informed Plaintiff that we withheld a portion of the document—specifically, an email record—as non-responsive and that other portions of this document were withheld by OIP pursuant to (b)(6) of the FOIA statute. (OIG Exhibit 8). In total, the OIG released 10 pages of documents to Plaintiff, two of which were redacted in full.

### **The OIG's Asserted Exemptions**

19. The only basis on which the OIG withheld information in this case is under (b)(5) of the FOIA statute (Exemption 5). The OIG asserted Exemption 5 over communications between then-Deputy IG Storch and Inspector General Horowitz as well as to then-Deputy IG Storch's notes regarding matters unrelated to the subject of this FOIA request. Exemption 5 protects from disclosure, "inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency." 5 U.S.C. § 552(b)(5). This exemption includes documents and information that fall within the deliberative process privilege, the general purpose of which is to "prevent injury to the quality of agency decisions." All of the OIG's withholdings were taken to protect information that falls within the scope of its deliberative process privilege.

20. The information that the OIG withheld pursuant to Exemption 5 in the documents referenced as numbers 1, 2, and 5 in the Vaughn index relates to the

OIG's internal discussion regarding how to gather and communicate information related to the Congressional request the OIG had received about the same subject matter of this subsequently received FOIA request, as well as internal discussion in which then-DIG Storch updates IG Horowitz on the status of a response from the Office of the Deputy Attorney General related to the matter that is the subject of this FOIA request.

21. Regarding Document 1, the OIG only withheld the portion of this document that relates to the OIG's internal discussion about how to gather information and communicate its views in response to the Congressional inquiry related to the same subject matter as this request.

22. Regarding Documents 2 and 5, these documents are duplicates. The portion of these document that the OIG withheld relates to internal discussion in which then-DIG Storch updates IG Horowitz on the status of a response from the Office of the Deputy Attorney General related to the separate Congressional inquiry the OIG had received about the same subject matter of this subsequently received FOIA request. Document 2 is described as being withheld in part because there is an additional email contained on the same page, portions of which were released and portions of which were withheld by OIP. Document 5 is described as being withheld in full because the additional email on the same page was treated as a duplicate of what was released in Document 2.

23. The information that the OIG withheld pursuant to Exemption 5 in the document referenced as numbers 3-4 in the Vaughn index relates to information contained in notes taken by then-DIG Storch while listening to the Deputy Attorney

General's (DAG) testimony during an oversight hearing before the House Judiciary Committee on December 13, 2017. The withheld notes relate to DIG Storch's thoughts and views on matters that arose during the DAG's testimony that were unrelated to the subject matter of this FOIA request. The remainder of the information in these documents was withheld by OIP.

24. The records over which the OIG asserts the exemption are encompassed within Plaintiff's broadly worded request for "all communications concerning the decision to invite reporters to DOJ on December 12, 2017, for the purpose of sharing with them private text messages sent during the 2016 presidential campaign by two former FBI investigators on Special Counsel Robert Mueller's team." However, they contain no information about "the decision to invite reporters to DOJ on December 12," because, as demonstrated by records produced by the OIG, the OIG was not involved in such decision and had no advance knowledge of it.

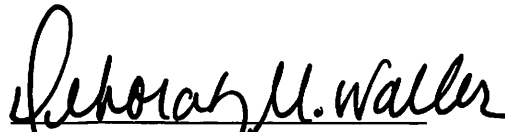
25. The OIG's assertion of the deliberative process privilege in this matter is designed, among other reasons, to prevent injury to the quality of agency decisions by encouraging open, frank communication and discussion on matters of policy and to protect against public confusion that might result from the disclosure of reasons that were not ultimately the grounds for an agency's decision. To require disclosure of the withheld material would prevent the OIG's staff from engaging in meaningful documented discussion about policy matters in the future, which could have a negative effect on agency decision-making, and would potentially confuse the public about the reasons for the OIG's actions in this matter.

26. The records withheld based on the OIG's assertion of the deliberative process privilege are both pre-decisional and deliberate. The redacted material is limited to internal OIG communications between the Deputy Inspector General and the Inspector General regarding how to gather and communicate information related to the Congressional request the OIG had received about the same subject matter of this subsequently received FOIA request, as well as internal discussion in which the Deputy Inspector General provides updates to the Inspector General on the status of a response from the Office of the Deputy Attorney General related to the December 12 meeting about which the OIG had no advance knowledge. Other withheld records based on the deliberative process privilege constitute notes containing the views and impressions of the Deputy Inspector General regarding the DAG's Congressional testimony about matters unrelated to this FOIA request.

27. Following a line-by-line review of documents 1, 2, 3-4, and 5, the OIG has released all reasonably segregable, non-exempt information to the Plaintiff. The OIG carefully examined the information it withheld under Exemption 5 and determined that the internal OIG information withheld, if disclosed, would violate the OIG's deliberative process privilege. In performing this analysis, each page was evaluated to determine what information could be segregated and released.

Pursuant to Title 28 U.S.C. § 1764, I declare under penalty of perjury that the foregoing is true and correct, and certify that OIG Exhibits 1, 2, 3, 4, 5, 6, 7, and 8 are true and correct copies.

Dated: October 26, 2018  
Washington, D.C

  
Deborah M. Waller

# **EXHIBIT 1**

# CREW | citizens for responsibility and ethics in washington

December 13, 2017

BY EMAIL: [oigfoia@usdoj.gov](mailto:oigfoia@usdoj.gov)

Deborah M. Waller  
Government Information Specialist  
U.S. Department of Justice  
Office of the Inspector General  
Office of General Counsel  
950 Pennsylvania Ave., N.W.  
Room 4726  
Washington, D.C. 20530

Re: Freedom of Information Act Request

Dear Ms. Waller:

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 U.S. Department of Justice ("DOJ") regulations.

Specifically, CREW requests all communications concerning the decision to invite reporters to DOJ on December 12, 2017, for the purpose of sharing with them private text messages sent during the 2016 presidential campaign by two former FBI investigators on Special Counsel Robert Mueller's team. This request includes, but is not limited to: (1) communications with reporters regarding this meeting; (2) communications within DOJ about whether, when, and how to share the text messages with reporters including, *inter alia*, the Office of the Inspector General, the Attorney General, the Office of Legislative Affairs, the Deputy Attorney General, the Associate Attorney General, the Office of Public Affairs, and any individual within the senior leadership offices of DOJ; and (3) communications with any member of Congress and/or their staff regarding this matter.

CREW further requests documents reflecting who made the decision to release this material to reporters on the evening of December 12, 2017.

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.

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

Deborah Waller  
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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 DOJ 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).

It was just reported that last evening, in advance of Deputy Attorney General Rod J. Rosenstein's testimony today before the House Judiciary Committee, DOJ took the unprecedented step of inviting a group of reporters to its offices to view private text messages, which were critical of President Trump and sent during the 2016 campaign by two former FBI investigators who, until recently, served on Special Counsel Robert Mueller's team. Natasha Bertrand, In 'highly unusual' move, DOJ secretly invited reporters to view texts sent by ousted FBI agents, *Business Insider*, Dec. 13, 2017, available at <http://www.businessinsider.com/peter-strzok-page-texts-mueller-russia-trump-2017-12>. The article cites a source who "said the texts were given to reporters in case they did not leak in time for Deputy Attorney General Rod Rosenstein's public hearing on Wednesday morning." *Id.* Deputy Attorney General Rosenstein acknowledged during his testimony that there had been a decision that the texts "were fit for public consumption," and that the inspector general had been consulted "to determine that he had no objection to releasing the material." *Id.*

Given this highly unusual, if not unprecedented, action to secretly leak the contents of documents currently under review by your office, the public has a clear and pressing interest in learning whether the leak was properly authorized and the extent to which the interests of the texts' authors, the inspector general, and DOJ's interests in the orderly administration of justice were appropriately considered and protected. This need is made more compelling by the concern expressed by a former DOJ official that the leak was done "so Rosenstein can get credit from House Republicans at his hearing today." *Id.* Only through the full disclosure of the facts and circumstances surrounding this decision can the public have confidence in the actions and integrity of the Justice Department.

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

Deborah Waller  
December 13, 2017  
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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 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 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 on its website, 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(2), CREW submitted that request to the Director of Public Affairs; a copy of this request is enclosed.

#### 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 [aweismann@citizensforethics.org](mailto:aweismann@citizensforethics.org). 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 either [aweismann@citizensforethics.org](mailto:aweismann@citizensforethics.org) or Anne L. Weismann, Citizens for

Deborah Waller  
December 13, 2017  
Page 4

Responsibility and Ethics in Washington, 455 Massachusetts Ave., N.W. Washington, D.C.  
20001. Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Anne L. Weismann', with a stylized, flowing script.

Anne L. Weismann  
Chief FOIA Counsel

encl.

# **EXHIBIT 2**



U.S. Department of Justice

Office of the Inspector General

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December 15, 2017

Anne L. Weismann  
Chief FOIA Counsel  
Crew|Citizens for Responsibility and Ethics in Washington  
[aweismann@citizensforethics.org](mailto:aweismann@citizensforethics.org)

Subject: Freedom of Information/Privacy Act Request [18-OIG-069]

Dear Ms. Weismann:

This is a partial response to your request under the Freedom of Information Act (FOIA) for access to records maintained by the Office of the Inspector General (OIG). Specifically, your request seeks "all communications concerning the decision to invite reporters to DOJ on December 12, 2017, for the purpose of sharing with them private text messages sent during the 2016 presidential campaign by two former FBI investigators on Special Counsel Robert Mueller's team." We have located one document that is responsive to your request. It has been determined that this document is appropriate for release without excision and a copy is enclosed.

We will continue to review records responsive to your request and process your request as expeditiously as possible.

If you are not satisfied with my response to this request, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, Suite 11050, 1425 New York Avenue, NW, Washington, DC 20530-0001, or you may submit an appeal through OIP's FOIAonline portal by creating an account on the following web site: <https://foiaonline.regulations.gov/foia/action/public/home>. Your appeal must be postmarked or electronically transmitted within 90 days of the date of my response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal."

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. See 5 U.S.C. 552(c) (2006 & Supp. IV 2010). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

You may contact our FOIA Public Liaison, Deborah Waller at (202) 616-0646 for any further assistance of your request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at [ogis@nara.gov](mailto:ogis@nara.gov); telephone at (202) 741-5770; toll free at 1-877-684-6448.

Sincerely,

*Jeanetta M. Howard*

Jeanetta M. Howard  
Government Information Specialist  
Office of the General Counsel

Enclosure

# **EXHIBIT 3**



U.S. Department of Justice

Office of the Inspector General

February 5, 2018

MEMORANDUM FOR CARMON L. MALLON  
CHIEF OF STAFF  
OFFICE OF INFORMATION POLICY

*Deborah M. Waller*

FROM: DEBORAH M. WALLER  
GOVERNMENT INFORMATION SPECIALIST  
OFFICE OF THE INSPECTOR GENERAL

SUBJECT: Freedom of Information Act (FOIA) Requests  
Anne Weismann/CREW (18-OIG-069) and  
Sara Creighton/American Oversight (18-OIG-079)

This is in response to Freedom of Information Act (FOIA) requests received by the Office of Inspector General (OIG) from Anne Weismann and Sara Creighton. The requesters are seeking documents relating to "the decision to invite reporters to DOJ for the purpose of sharing with them private text messages sent during the 2016 presidential campaign by two former FBI investigators on Special Counsel Robert Mueller's team." A copy of the request letters are attached.

The OIG located two documents that are responsive to the FOIA requests. The documents reflect notes taken by telephone or an in-person meeting with Robert Storch, former Deputy Inspector General and Associate Deputy Attorney General Scott Schools taken on or about December 13, 2017. Because the ODAG has a substantial interest in these documents, we are consulting with your office regarding their release. Accordingly, please review and inform us whether you believe any of the information is exempt under the statute. The OIG will respond directly to the requesters.

If you have any questions feel free to contact me at (202) 616-0646.  
Thank you.

Attachments

# **EXHIBIT 4**



U.S. Department of Justice

Office of the Inspector General

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February 5, 2018

Anne L. Weismann  
Chief FOIA Counsel  
Crew|Citizens for Responsibility and Ethics in Washington  
[aweismann@citizensforethics.org](mailto:aweismann@citizensforethics.org)

Subject: Freedom of Information/Privacy Act Request [18-OIG-069]

Dear Ms. Weismann:

This is a partial response to your request under the Freedom of Information Act (FOIA) for access to records maintained by the Office of the Inspector General (OIG). Specifically, your request seeks "all communications concerning the decision to invite reporters to DOJ on December 12, 2017, for the purpose of sharing with them private text messages sent during the 2016 presidential campaign by two former FBI investigators on Special Counsel Robert Mueller's team."

We have referred two pages of documents generated by the OIG, but that contain information of substantial interest to the Office of the Deputy Attorney General. We are referring those documents to the Office of Information Policy (OIP) for consultation. We will inform you regarding our determination following this consultation. We will continue to search for records responsive to your request and will process your request as expeditiously as possible.

If you are not satisfied with my response to this request, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, Suite 11050, 1425 New York Avenue, NW, Washington, DC 20530-0001, or you may submit an appeal through OIP's FOIAonline portal by creating an account on the following web site: <https://foiaonline.regulations.gov/foia/action/public/home>. Your appeal must be postmarked or electronically transmitted within 90 days of the date of my response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal."

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. See 5 U.S.C. 552(c) (2006 & Supp. IV 2010). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

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Sincerely,

*Jeanetta M. Howard*

Jeanetta M. Howard  
Government Information Specialist  
Office of the General Counsel

# **EXHIBIT 5**



U.S. Department of Justice

Office of the Inspector General

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February 12, 2018

Anne L. Weismann  
Chief FOIA Counsel  
Crew|Citizens for Responsibility and Ethics in Washington  
[aweismann@citizensforethics.org](mailto:aweismann@citizensforethics.org)

Subject: Freedom of Information/Privacy Act Request [18-OIG-069]

Dear Ms. Weismann:

This is a partial response to your request under the Freedom of Information Act (FOIA) for access to records maintained by the Office of the Inspector General (OIG). Specifically, your request seeks "all communications concerning the decision to invite reporters to DOJ on December 12, 2017, for the purpose of sharing with them private text messages sent during the 2016 presidential campaign by two former FBI investigators on Special Counsel Robert Mueller's team."

The OIG has located emails consisting of 39 pages. Of the 39 pages of emails, eight pages were sent to Office of Information Policy (OIP) for consultation. 25 pages contained emails that are duplicates of the emails sent to OIP for consultation and were not included in the consultation to OIP. The remaining six pages of emails were withheld by the OIG in their entirety. Portions of the emails were withheld as non-responsive, and portions were withheld under exemption (b)(5) of the FOIA.

Please note this concludes our search for records responsive to your request. We will provide you with our final response and determination following the consultations with OIP.

If you are not satisfied with my response to this request, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, Suite 11050, 1425 New York Avenue, NW, Washington, DC 20530-0001, or you may submit an appeal through OIP's FOIAonline portal by creating an account on the following web site:

<https://foiaonline.regulations.gov/foia/action/public/home>. Your appeal must be postmarked or electronically transmitted within 90 days of the date of my response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal."

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. See 5 U.S.C. 552(c) (2006 & Supp. IV 2010). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

You may contact our FOIA Public Liaison, Deborah Waller at (202) 616-0646 for any further assistance of your request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at [ogis@nara.gov](mailto:ogis@nara.gov); telephone at (202) 741-5770; toll free at 1-877-684-6448.

Sincerely,

*Jeanetta M. Howard*

Jeanetta M. Howard  
Government Information Specialist  
Office of the General Counsel

# **EXHIBIT 6**



U.S. Department of Justice

Office of the Inspector General

February 12, 2018

MEMORANDUM FOR CARMON L. MALLON  
CHIEF OF STAFF  
OFFICE OF INFORMATION POLICY

*Deborah M. Waller*

FROM: DEBORAH M. WALLER  
GOVERNMENT INFORMATION SPECIALIST  
OFFICE OF THE INSPECTOR GENERAL

SUBJECT: Freedom of Information Act (FOIA) Requests  
Anne Weismann/CREW (18-OIG-069) and  
Sara Creighton/American Oversight (18-OIG-079)

This is in response to Freedom of Information Act (FOIA) requests received by the Office of Inspector General (OIG) from Anne Weismann and Sara Creighton. The requesters are seeking documents relating to "the decision to invite reporters to DOJ for the purpose of sharing with them private text messages sent during the 2016 presidential campaign by two former FBI investigators on Special Counsel Robert Mueller's team."

In our continued search of records, the OIG has located additional documents consisting of 39 pages of emails. Of the 39 pages of emails, eight pages are being sent to Office of Information Policy (OIP) for consultation. The documents reflect communications between Robert Storch, former Deputy Inspector General and Associate Deputy Attorney General Scott Schools. Because the ODAG has a substantial interest in these documents, we are consulting with your office regarding their release. Accordingly, please review and inform us whether you believe any of the information is exempt under the statute. The OIG will respond directly to the requesters.

If you have any questions feel free to contact me at (202) 616-0646.  
Thank you.

Attachments

# **EXHIBIT 7**



**U.S. Department of Justice**

**Office of the Inspector General**

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April 17, 2018

Anne L. Weismann  
Chief FOIA Counsel  
Crew|Citizens for Responsibility and Ethics in Washington  
[aweismann@citizensforethics.org](mailto:aweismann@citizensforethics.org)

Subject: Freedom of Information/Privacy Act Request [18-OIG-069]

Dear Ms. Weismann:

This is a partial response to your request under the Freedom of Information Act (FOIA) for access to records maintained by the Office of the Inspector General (OIG). OIG previously produced responsive records on December 15, 2017. As we informed you on February 5, 2018 and February 12, 2018, we referred for consultation a total of 10 pages of records generated by the OIG, but that contain information of substantial interest to the Office of the Deputy Attorney General.

After consultation with the Office of Information Policy (OIP), we are now producing 9 pages of records (numbered as OIG - #1 through #4, and OIG - #6 through 10) in response to your request. Certain information has been redacted from these records pursuant to the Freedom of Information Act, 5 U.S.C. §552(b)(5) and (b)(6). Please note that some redactions to the documents were applied by the OIP.

We are continuing to consult with OIP regarding a one-page record (numbered as OIG - # 5). We expect a resolution of this consultation very soon and will inform you promptly of the outcome.

If you are not satisfied with my response to this request, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, Suite 11050, 1425 New York Avenue, NW, Washington, DC 20530-0001, or you may submit an appeal through OIP's FOIAonline portal by creating an account on the following web site: <https://foiaonline.regulations.gov/foia/action/public/home>. Your appeal must be postmarked or electronically transmitted within 90 days of the date of my

response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal."

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. See 5 U.S.C. 552(c) (2006 & Supp. IV 2010). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

You may contact our FOIA Public Liaison, Deborah Waller at (202) 616-0646 for any further assistance of your request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at [ogis@nara.gov](mailto:ogis@nara.gov); telephone at (202) 741-5770; toll free at 1-877-684-6448.

Sincerely,

*Jeanetta M. Howard*

Jeanetta M. Howard  
Government Information Specialist  
Office of the General Counsel

# **EXHIBIT 8**



U.S. Department of Justice

Office of the Inspector General

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April 23, 2018

Anne L. Weismann  
Chief FOIA Counsel  
Crew|Citizens for Responsibility and Ethics in Washington  
[aweismann@citizensforethics.org](mailto:aweismann@citizensforethics.org)

Subject: Freedom of Information/Privacy Act Request [18-OIG-069]

Dear Ms. Weismann:

This is the final response to your request under the Freedom of Information Act (FOIA) for access to records maintained by the Office of the Inspector General (OIG). As we informed you on April 17, 2018, the OIG consulted with the Office of Information Policy (OIP) regarding a one-page document (numbered as OIG - #5).

After consultation with OIP, we are now producing the one-page document in response to your request. Portions of the document were withheld as non-responsive and portions were withheld under exemption (b)(6) of the FOIA.

Please note this concludes our processing and we consider this response as closing your request with the OIG.

If you are not satisfied with my response to this request, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, Suite 11050, 1425 New York Avenue, NW, Washington, DC 20530-0001, or you may submit an appeal through OIP's FOIAonline portal by creating an account on the following web site: <https://foiaonline.regulations.gov/foia/action/public/home>. Your appeal must be postmarked or electronically transmitted within 90 days of the date of my response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal."

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. See 5 U.S.C. 552(c) (2006 & Supp. IV 2010). This response is limited to those records

that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

You may contact our FOIA Public Liaison, Deborah Waller at (202) 616-0646 for any further assistance of your request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at [ogis@nara.gov](mailto:ogis@nara.gov); telephone at (202) 741-5770; toll free at 1-877-684-6448.

Sincerely,

*Jeanetta M. Howard*

Jeanetta M. Howard  
Government Information Specialist  
Office of the General Counsel

Enclosure

OFFICE OF THE INSPECTOR GENERAL  
VAUGHN INDEX  
CITIZENS FOR RESPONSIBILITY AND ETHICS IN WASHINGTON V. U.S. DEPARTMENT OF JUSTICE

Document Bate#	BRIEF DESCRIPTION OF THE DOCUMENT	DATE	NO. OF PAGES	EXEMPTIONS ASSERTED	DESCRIPTION OF WITHHELD INFORMATION
Bate# 001	Email	12/14/17	1	(b)(5)	<p>Released in part. This document consists of an intra-agency email sent to Inspector General (IG) Michael Horowitz from former Deputy Inspector General (DIG) Robert Storch relating to the Department's decision to invite reporters to DOJ for the purpose of sharing with them private text messages sent during the 2016 presidential campaign by two former FBI investigators on Special Counsel Robert Mueller's team.</p> <p>The withheld information consists of deliberative, predecisional communications and recommendations in that IG Horowitz and DIG Storch discuss how to gather information and communicate the information related to the matter that is the subject of this FOIA request.</p> <p>Exemption b5 is applied to protect deliberative recommendations and opinions contained in the email. Release of this information would have a negative impact on the integrity of the deliberative or decision-making processes within the agency by discouraging the expression of candid opinions and recommendations and inhibit the free and frank exchange of information among agency personnel necessary to execute the mission of the agency.</p> <p>The OIG conducted a thorough review of the document and determined that there is no additional meaningful, non-exempt information that may be reasonably segregated and released.</p>

002	Email	12/13/17	1	(b)(5)	<p>Released in part. This document consists of an intra-agency email sent to IG Horowitz from former DIG Storch relating to the Department's decision to invite reporters to DOJ for the purpose of sharing with them private text messages sent during the 2016 presidential campaign by two former FBI investigators on Special Counsel Robert Mueller's team.</p> <p>The withheld information consists of deliberative, predecisional communications and recommendations in that DIG Storch updates IG Horowitz on the status of a response from the Office of the Deputy Inspector General related to the matter that is the subject of this FOIA request.</p> <p>Exemption b5 is applied to protect deliberative recommendations and opinions contained in the email. Release of this information would have a negative impact on the integrity of the deliberative or decision-making processes within the agency by discouraging the expression of candid opinions and recommendations and inhibit the free and frank exchange of information among agency personnel necessary to execute the mission of the agency.</p> <p>The OIG conducted a thorough review of the document and determined that there is no additional meaningful, non-exempt information that may be reasonably segregated and released.</p>
003-004	Notes	12/13/17	2	(b)(5)	<p>Withheld in full- in part by the OIG and in part by OIP. This document consists of notes taken by former DIG Storch during the Deputy Attorney General's testimony before Congress.</p> <p>The information withheld by the OIG consists of deliberative, predecisional communications in that it contains former DIG Storch's thoughts regarding matters unrelated to the subject of this FOIA request. The information withheld by OIP consists of former DIG Storch's thoughts and communications with former Associate Deputy Attorney General Schools regarding the handling of the release of the text messages to the media.</p> <p>Exemption b5 is applied to protect deliberative recommendations and opinions contained in the email. Release of this information would have a negative impact on the integrity of the deliberative or decision-making processes within the agency by discouraging the expression of candid opinions and recommendations and inhibit the free and frank exchange of information among agency personnel necessary to execute the mission of the agency.</p>

					The OIG conducted a thorough review of the document and determined that there is no additional meaningful, non-exempt information that may be reasonably segregated and released.
005	Email	12/13/17	1	b(5)	<p>Withheld in full. This document consists of an intra-agency email sent to IG Horowitz from former DIG Storch relating to the Department's decision to invite reporters to DOJ for the purpose of sharing with them private text messages sent during the 2016 presidential campaign by two former FBI investigators on Special Counsel Robert Mueller's team.</p> <p>The withheld information consists of deliberative, predecisional communications and recommendations in that DIG Storch updates IG Horowitz on the status of a response from the Office of the Deputy Inspector General related to the matter that is the subject of this FOIA request.</p> <p>Exemption b5 is applied to protect deliberative recommendations and opinions contained in the email. Release of this information would have a negative impact on the integrity of the deliberative or decision-making processes within the agency by discouraging the expression of candid opinions and recommendations and inhibit the free and frank exchange of information among agency personnel necessary to execute the mission of the agency.</p> <p>The OIG conducted a thorough review of the document and determined that there is no additional meaningful, non-exempt information that may be reasonably segregated and released.</p>