



**citizens for responsibility
and ethics in washington**

June 26, 2018

BY EMAIL: OGC_EFOIA@BOP.GOV

FOIA/PA Section
Office of General Counsel, Room 924
Federal Bureau of Prisons
320 First Street, N.W.
Washington, DC 20534

Re: Expedited Freedom of Information Act Request

Dear FOIA Officer:

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.

Specifically, CREW requests copies of all communications from April 1, 2018 to the present sent to or from anyone acting on behalf of (1) the Geo Group; (2) CoreCivic, Inc.; (3) Brian Ballard; and/or (4) Ballard Partners to or from anyone on the staff of the U.S. Bureau of Prisons ("BOP") concerning or referencing in any way the Trump Administration's zero tolerance and family separation border policies and its expansion of immigration detention.

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).

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).

As has been widely reported, President Donald Trump is pursuing a “zero-tolerance” policy at the border, which exposes anyone crossing the border without authorization to detention and criminal prosecution, and a family separation policy. Although Attorney General Jeff Sessions announced the Trump administration’s policy to separate children from their parents as an immigration deterrent in early May, nearly 2,000 children were separated from their parents at the border from April 29 to May 31, 2018,¹ and administration officials stated that between May 5 and June 9, a total of 2,342 children had been separated from parents at the border pursuant to the Trump administration’s zero tolerance policy.²

With a critical lack of housing for detainees, federal officials have turned to federal prisons as a temporary solution.³ Reportedly prisons have had little time to prepare for a massive influx of detainees,⁴ and a former official with U.S. Immigration and Customs Enforcement (“ICE”) expressed the concern that a “large percent of ICE detainees have no criminal record and are more vulnerable in a prison setting.”⁵

The BOP in turn relies on private prisons to house immigrant populations, like the Geo Group and CoreCivic, Inc.⁶ Last year the Geo Group was awarded a \$110 million federal contract to build a new detention center for detainees, and private prisons like Geo Group and CoreCivic, Inc. are expected to profit hugely from this crisis.⁷

The requested records would shed light on the extent to which BOP, working with ICE and DHS, has properly prepared for this crisis and the roles private prisons and those who lobby

¹ Maya Rhodan, *Here Are the Facts About President Trump’s Family Separation Policy*, *Time*, June 20, 2018, available at <http://time.com/5314769/family-separation-policy-donald-trump/>.

² Dara Lind, *New Statistics: the Government Is Separating 65 Children a Day From Parents at the Border*, *Vox*, June 19, 2018, available at <https://www.vox.com/2018/6/19/17479138/how-many-families-separated-border-immigration>.

³ Sarah N. Lynch and Kristina Cooke, *Exclusive: U.S. Sending 1,600 Immigration Detainees to Federal Prisons*, *Reuters*, June 7, 2018, available at <https://www.reuters.com/article/us-usa-immigration-prisons-exclusive/exclusive-u-s-sending-1600-immigration-detainees-to-federal-prisons-idUSKCN1J32W1>.

⁴ *Id.*

⁵ James Doubek, *ICE to Send 1,600 Detainees to Federal Prisons*, *NPR*, June 8, 2018, available at <https://www.npr.org/2018/06/08/618182740/ice-to-send-1-600-detainees-to-federal-prisons>.

⁶ *See, e.g.,* Sarah Toy, *These Companies Are Expected to Profit From Trump’s Continued ‘Zero-Tolerance’ Policy at the Border*, *MarketWatch*, June 25, 2018, available at <https://www.marketwatch.com/story/these-companies-are-expected-to-profit-from-trumps-continued-zero-tolerance-policy-at-the-border-2018-06-22>.

⁷ Toy, *MarketWatch*, June 25, 2018.

on their behalf, such as Brian Ballard and his firm Ballard Partners,⁸ have played in that preparation, especially given the huge profits they likely will earn from imprisoning people at the border.⁹

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"). The records could help alleviate widespread concerns that President Trump's family separation and zero tolerance policies were hastily drafted without sufficient consideration of their practical ramifications.

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 all documents it receives under the FOIA its website, which has 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 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 that request is enclosed.

⁸ Theodoric Meyer, *The Most Powerful Lobbyist in Trump's Washington*, *Politico*, Apr. 2, 2018, available at <https://www.politico.com/magazine/story/2018/0402most-powerful-lobbyist-in-trump-washington-217759>.

⁹ See Jerry Iannelli, *Five Reasons South Florida's Pro-Trump Private-Prison Company Is Evil*, *Miami New Times*, Jan. 7, 2018, available at <http://www.misminewtimes.com/content/printView/9967258>.

Conclusion

If you have any questions about this request or foresee any problems in fully releasing the requested records on an expedited basis, 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 our office immediately upon making such a determination.

Where possible, please produce records in electronic format. Please send the requested records to me either at aweismann@citizensforethics.org or at Anne L. Weismann, Citizens for Responsibility and Ethics in Washington, 455 Massachusetts Ave., N.W., Washington, D.C. 20001. Thank you for your assistance in this matter.

Sincerely,



Anne L. Weismann
Chief FOIA Counsel

Encl.