

CREW | citizens for responsibility and ethics in washington

September 25, 2019

BY EMAIL: FOIArequest@state.gov

U.S. Department of State
Office of Information Programs and Services
A/GIS/IPS/RL
SA-2, Suite 8100
Washington, D.C. 20522-8100

Re: Expedited Freedom of Information Act Request

Dear FOIA Officer:

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 State regulations.

First, CREW requests copies of all communications to or from Rudolph "Rudy" Giuliani, or anyone acting on his behalf, between May 1, 2019 and the date of this request.

Second, CREW requests copies of all communications to or from the White House that mention, refer, or relate to Rudolph Giuliani's role in discussions and meetings with Ukrainian officials between May 1, 2019 and the date of this request.

All searches should include, but not be limited to, records held by the Bureau of European and Eurasian Affairs (EUR), Under Secretary of State for Political Affairs (P), Office of the Secretary (S), Executive Secretary (S/ES), Deputy Secretary (D), the Special Representative for Ukraine Kurt Volker, U.S. Embassy Kyiv, Office of the Counselor (C).

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 those who were 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).

Fee Waiver Request

In accordance with 5 U.S.C. § 552(a)(4)(A) and State Department 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).

For months, Mr. Giuliani, who serves as a personal lawyer for President Donald Trump, has been leading an effort to encourage the government of Ukraine to investigate allegations related to a potential political rival of President Trump, former Vice President Joe Biden, and his son, despite reports that prosecutors in Ukraine “have no evidence of wrongdoing” related to the Bidens.¹ Mr. Giuliani reportedly began focusing on the Ukrainian inquiries in November 2018 and has worked with two U.S. businessmen, Lev Parnas and Igor Fruman, to engage with Ukrainian officials over the past year.²

Mr. Giuliani planned to travel to Ukraine in May 2019 with the goal of meeting then-incoming Ukrainian President Zelensky to urge him to pursue inquiries related to the Bidens as well as Ukrainian ties to the origins of the special counsel’s investigation into Russia’s interference in the 2016 election.³ According to Mr. Giuliani, he was not “meddling in an election,” but was “meddling in an investigation,” which he conceded “somebody could say it’s improper.”⁴ “I’m asking them to do an investigation that they’re doing already and that other people are telling them to stop,” Mr. Giuliani told the *New York Times*. “And I’m going to give them reasons why they shouldn’t stop it because that information will be very, very helpful to my client, and may turn out to be helpful to my government.”⁵ Mr. Giuliani canceled the trip,

¹ Kenneth R. Vogel, [Behind the Whistle-Blower Case, a Long-Held Trump Grudge Toward Ukraine](https://nyti.ms/2m7wjC2), *New York Times*, Sept. 20, 2019, available at <https://nyti.ms/2m7wjC2>; Stephanie Baker and Daryna Krasnolutska, [Trump, Giuliani Press for Dirt on Biden Despite Ukraine Rebuff](https://bloom.bg/2mxb0tz), *Bloomberg*, Sept. 20, 2019, available at <https://bloom.bg/2mxb0tz>.

² John Solomon, [Missing piece to the Ukraine puzzle: State department’s overture to Rudy Giuliani](https://bit.ly/2mgIX1j), *The Hill*, Sept. 20, 2019, available at <https://bit.ly/2mgIX1j>; Michael Sallah, Tanya Kozyreva, and Aubrey Belford, [Two Unofficial US Operatives Reporting To Trump’s Lawyer Privately Lobbied A Foreign Government In A Bid To Help The President Win In 2020](https://bit.ly/2Obd87G), *BuzzFeed*, July 22, 2019, available at <https://bit.ly/2Obd87G>.

³ Kenneth P. Vogel, [Rudy Giuliani Plans Ukraine Trip to Push for Inquiries That Could Help Trump](https://nyti.ms/2Vs9xFG), *New York Times*, May 9, 2019, available at <https://nyti.ms/2Vs9xFG>.

⁴ *Id.*

⁵ *Id.*

however, following criticism, claiming he worried he was being “set up” by Ukrainians critical of his efforts.⁶

Mr. Giuliani’s efforts have reportedly roiled politics in Ukraine as the government of President Zelensky “has been grappling with unwelcome political pressure by associates of” President Trump.⁷ Mr. Giuliani reportedly sought a meeting with President Zelensky as he was entering office, but, according to a former adviser to President Zelensky, his request was rebuffed by the president’s transition team out of concern with being seen as taking sides in American politics.⁸ According to the former Zelensky advisor, Serhiy Leshchenko, and two other Ukrainians who spoke to the *New York Times*, “Mr. Giuliani’s efforts created the impression that the Trump administration’s willingness to back [President] Zelensky was linked to his government’s readiness to pursue the investigations sought by Mr. Trump’s allies.”⁹

Mr. Leshchenko told the *New York Times* that “Ukrainian officials and intermediaries in touch with the Ukrainian government and Mr. Giuliani tried to find some way to mollify Mr. Giuliani and the Trump administration with an informal meeting or a phone call ... but [President] Zelensky vetoed all their proposals.”¹⁰ In an effort to “deflect pressure from President Trump and his allies to pursue investigations into” former Vice President Biden, President Zelensky reportedly “dispatched one of his closest aides to open a line of communication” with Mr. Giuliani.¹¹ President Zelensky’s aide, Mr. Yermak, was eventually helped by Mr. Volker, following breakfast with Mr. Yermak at the Trump International Hotel in early July 2019.¹² At the meeting, Mr. Yermak reportedly asked Mr. Volker for help connecting to Mr. Giuliani and Mr. Volker arranged a call.¹³ A few days later, Mr. Giuliani and Mr. Yermak spoke by phone and reportedly discussed the prospective investigations in Ukraine as well as a possible meeting at the White House between President Zelensky and President Trump.¹⁴

In August, Mr. Giuliani met with Mr. Yermak in Madrid, Spain. Mr. Giuliani said he “strongly urged” Mr. Yermak to “just investigate the darn things.”¹⁵ According to the *New York Times*, Mr. Giuliani also discussed “the status of the prospective Trump-Zelensky meeting”

⁶ Kenneth P. Vogel, Rudy Giuliani Cancels His Trip to Ukraine, *New York Times*, May 11, 2019, available at <https://nyti.ms/2JI0BVN>.

⁷ Andrew E. Kramer, Ukraine Pressured on U.S. Political Investigations, *New York Times*, Sept. 20, 2019, available at <https://nyti.ms/2m0dkco>.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ Vogel, *New York Times*, Sept. 20, 2019.

¹² *Id.*; Kenneth P. Vogel and Andrew E. Kramer, Giuliani Renews Push for Ukraine to Investigate Trump’s Political Opponents, *New York Times*, Aug. 21, 2019, available at <https://nyti.ms/2MwdLqN>; Kramer, *New York Times*, Sept. 20, 2019; Greg Miller, Josh Dawsey, Paul Sonne and Ellen Nakashima, Giuliana pursued shadow Ukraine agenda as key foreign policy officials were sidelined, *Washington Post*, Sept. 24, 2019, available at <https://wapo.st/2lly8eD>.

¹³ Vogel, *New York Times*, Sept. 20, 2019.

¹⁴ *Id.*

¹⁵ *Id.*; Vogel and Kramer, *New York Times*, Aug. 21, 2019.

during the meeting in Spain with Mr. Yermak.¹⁶ Though Mr. Giuliani insisted he was acting as a private citizen in his interactions with Mr. Yermak, he briefed State Department officials on the discussion following the meeting.¹⁷ Mr. Giuliani reportedly briefed two senior State Department officials, one responsible for Ukraine and one responsible for the European Union, by phone on August 11, 2019.¹⁸ According to *The Daily Beast*, U.S. diplomats “were aware of the details of Giuliani’s work in Ukraine on Biden as early as this spring” and Mr. Giuliani has briefed both Ambassador Volker and Ambassador Sondland “on multiple conference calls earlier this year about his progress in pursuing a Ukraine investigation.”¹⁹

Mr. Giuliani’s interactions with Ukrainian officials and his efforts to pressure them to investigate one of President Trump’s political rivals have received increased scrutiny in the wake of reports that a whistleblower in the intelligence community filed a complaint with the Office of the Intelligence Community Inspector General about an urgent concern on August 12, 2019, the day after Mr. Giuliani reportedly briefed State Department officials about his meeting with Mr. Yermak.²⁰ The contents of the complaint, which to date the Acting Director of National Intelligence has refused to provide to the congressional intelligence committees despite the Intelligence Community Inspector General finding it both credible and urgent, are largely unknown.²¹

Reporting, however, suggests the complaint involves President Trump’s communication with a foreign leader and centers on Ukraine.²² President Trump spoke to Ukrainian President Zelensky on July 25, 2019, and according to the *Wall Street Journal*, he repeatedly pressured President Zelensky during the call to investigate former Vice President Biden’s son, asking him “about eight times to work with Rudy Giuliani on a probe that could hamper Mr. Trump’s potential 2020 opponent.”²³ A transcript of the call released by the White House on September 25, 2019, confirmed that President Trump spoke to President Zelensky about inquiries into the Bidens and repeatedly referred to Mr. Giuliani.²⁴ The prospect of President Trump and his personal attorney pressuring Ukraine to investigate a political rival, which coincided with a hold

¹⁶ Vogel, *New York Times*, Sept. 20, 2019.

¹⁷ Vogel and Kramer, *New York Times*, Aug. 21, 2019.

¹⁸ Solomon, *The Hill*, Sept. 20, 2019.

¹⁹ Erin Banco, Asawin Suebsaeng, and Adam Rawnsley, [U.S. Ambassador Roped Into Rudy’s Quest to Smear Biden](https://bit.ly/2mr2xlt), *The Daily Beast*, Sept. 25, 2019, available at <https://bit.ly/2mr2xlt>.

²⁰ Robert S. Litt, [Unpacking the Intelligence Community Whistleblower Complaint](https://bit.ly/2kS0Fbh), *Lawfare*, Sept. 17, 2019, available at <https://bit.ly/2kS0Fbh>.

²¹ *Id.*

²² Ellen Nakashima, Shane Harris, Greg Miller, and Carol D. Leonig, [Whistleblower complaint about President Trump involves Ukraine, according to two people familiar with the matter](https://wapo.st/2mADy5u), *Washington Post*, Sept. 19, 2019, available at <https://wapo.st/2mADy5u>.

²³ Vogel, *New York Times*, Sept. 20, 2019; Alan Cullison, Rebecca Ballhaus and Dustin Volz, [Trump Repeatedly Pressed Ukraine President to Investigate Biden’s Son](https://on.wsj.com/2m0dEYE), *Wall Street Journal*, Sept 21, 2019, available at <https://on.wsj.com/2m0dEYE>.

²⁴ Rebecca Ballhaus and Sadie Gurman, [Transcript Shows Trump Asked Ukrainian Counterpart to Look Into Joe Biden](https://on.wsj.com/2mKbU63), *Wall Street Journal*, Sept. 25, 2019, available at <https://on.wsj.com/2mKbU63>.

up in \$250 million in U.S. aid to the country, has raised concerns that President Trump is abusing his power to benefit his re-election efforts.²⁵

The requested records would shed light on the role the State Department has played in Mr. Giuliani's interactions with Ukrainian officials as he sought to pressure them to take actions that could benefit President Trump's political interests. The records would also provide insight on any concerns State Department officials did or did not have regarding Mr. Giuliani's efforts and how they could affect U.S. foreign policy related to Ukraine. In these ways, they would reveal important information about the functioning and decisions of the State 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 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 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 blog posts 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.

Request for Expedition

CREW also requests that this request be expedited pursuant to 22 C.F.R. § 171.11(f), as it seeks urgently needed information as defined at 22 C.F.R. § 171.11, whose informational value

²⁵ Rebecca Ballhaus, *Timeline of Trump-Ukraine-Bidens Story*, *Wall Street Journal*, Sept. 21, 2019, available at <https://on.wsj.com/2kGubRl>; Editorial Board, *What did Trump tell Ukraine's president*, *Washington Post*, Sept. 20, 2019, available at <https://wapo.st/2kxMgkw>.

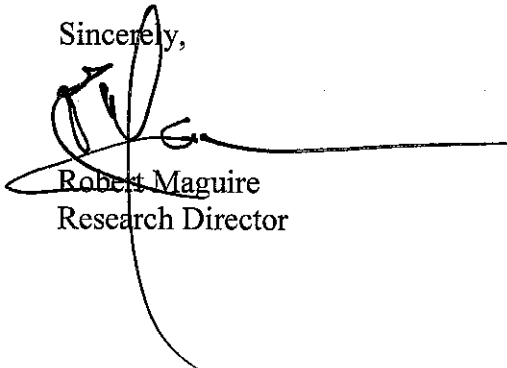
will be lost if not disseminated quickly. As explained above, the transcript of the call between President Trump and President Zelensky that the White House released on September 25 raises serious and disturbing questions not only about President Trump's own conduct, but the active and ongoing role Mr. Giuliani played in pressuring Ukraine to open an investigation designed to help President Trump's re-election efforts by harming those of one of his political rivals and the role that the State Department may have played in those efforts. These actions have severely undermined the foundations of our democracy and raise matters that are of extreme public interest. Any delay in disseminating this information to the public will cause further harm by allowing the President and Mr. Giuliani to falsely shape the public narrative of their actions, while depriving the public of information necessary to independently evaluate those actions. Moreover, as demonstrated above, CREW is engaged primarily in disseminating information to the public in general. For all these reasons, CREW satisfies the criteria for expedition.

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 rmaguire@citizensforethics.org. Also, if CREW's request for expedition and/or 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 rmaguire@citizensforethics.org or Robert Maguire, Citizens for Responsibility and Ethics in Washington, 1101 K Street, N.W., Suite 201, Washington, D.C. 20005. Thank you for your assistance in this matter.

Sincerely,



Robert Maguire
Research Director