

September 24, 2019

By facsimile: (202) 514-1009

Kerri Kupec
Director, Office of Public Affairs
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530-0001

Re: Request for Expedition of Freedom of Information Act Request

Dear Ms. Kupec;

Pursuant to Department of Justice (“DOJ”) regulations, 28 C.F.R. § 16.5(e)(2), Citizens for Responsibility and Ethics in Washington (“CREW”) requests that you authorize the expedition of a Freedom of Information Act (“FOIA”) request CREW made today to the Office of Legal Counsel. I have enclosed a copy of this request.

The FOIA request seeks copies of any opinion or directive written by the Office of Legal Counsel (“OLC”) concerning the ability of the Acting Director of National Intelligence to share with Congress a whistleblower complaint that the Inspector General for the Intelligence Community deemed to be an urgent matter and that was referenced in a September 13, 2019 letter to the House and Senate Committees on Intelligence from ODNI’s General Counsel.

CREW seeks expedition because the subject matter of the request is of widespread and exceptional media interest and the requested information involves possible questions about the government’s integrity, which clearly affect public confidence. The nation has been rocked by revelations that President Trump in one or more phone calls with the newly elected president of Ukraine pressured the Ukrainian government to investigate Hunter Biden, the son of one of his political rivals. Reportedly a whistleblower within the intelligence community, following the procedures prescribed by statute, filed a complaint with the Inspector General of the Intelligence Community (“IG”) concerning this matter, which by statute, 50 U.S.C. § 3033(k)(5), the ODNI was required to turn over to Congress.¹ ODNI’s Acting Director, however, has refused to provide the intelligence committees with the whistleblower’s complaint, relying in part on direction from DOJ.² David Laufman, a former DOJ counterintelligence official, has noted that

¹ See, e.g., Dustin Volz and Siobhan Hughes, Whistleblower Complaint Involves Trump Communication With Foreign Leader, *Wall Street Journal*, Sept. 19, 2019, available at <https://www.wsj.com/articles/whistleblower-complaint-involves-trump-communication-with-foreign-leader-11568898983>; Julian E. Barnes, Nicholas Fandos, Michael S. Schmidt and Matthew Rosenberg, Whistle-Blower Complaint Sets Off a Battle Involving Trump, *New York Times*, Sept. 19, 2019, available at <https://www.nytimes.com/2019/09/19/us/politics/intelligence-whistle-blower-complaint-trump.html>.

² See Letter from Jason Klitenic, General Counsel, ODNI, to Chairman Richard Burr, Chairman Adam Schiff, Vice Chairman Mark Warner, and Ranking Member Devin Nunes, September 13, 2019, available at <https://assets.documentcloud.org/documents/6419391/Sept-13-Letter.pdf>.

ODNI's director "was obligated to abide by the Office of Legal Counsel's direction not to turn over the complaint to Congress[.]"³

The public has a strong and urgent interest in the disclosure of any OLC opinions or directives explaining the basis for the ODNI's refusal to comply with the statutory requirement to provide Congress with a whistleblower complaint that concerns a matter directly implicating the president and his possible unlawful conduct. The public has an equally pressing interest in learning more about OLC's role in this matter and the extent to which it has used its authority to prevent the public from learning about President Trump's misuse of his powers to pressure a foreign government into digging up negative information to aid him in the 2020 election. Expediting CREW's request will ensure those rights are fully realized by the American public.

CREW's primary purpose is to inform and educate the public about the activities of government officials and those who influence public officials. Toward that end, CREW uses statutes like the FOIA to gather information the public needs to hold public officials accountable. The requests for which CREW seeks expedition will further those goals.

I certify the following is true and correct.

Sincerely,



Anne L. Weismann
Chief FOIA Counsel

Encl.

³ Matt Zapotosky and Devlin Barrett, Trump administration again pushes limits of authority in shielding whistleblower complaint from Congress, *Washington Post*, Sept. 23, 2019, available at https://www.washingtonpost.com/national-security/trump-administration-again-pushes-limits-of-authority-in-shielding-whistleblower-complaint-from-congress/2019/09/23/734603ee-de35-11e9-8dc8-498eabc129a0_story.html.