

October 15, 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: 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 a copy of a May 9, 2018 letter sent to Secretary of State Mike Pompeo by then-Rep. Pete Sessions (R-TX) regarding then-U.S. Ambassador to Ukraine Marie Yovanovitch as well as any subsequent letters sent by then-Rep. Sessions about Ambassador Yovanovitch.

Second, CREW requests copies of any and all communications sent to then-Rep. Sessions by Secretary Pompeo, or anyone acting on his behalf, in response to his letters regarding Ambassador Yovanovitch.

Third, CREW requests copies of any and all letters sent to Secretary Pompeo in April 2019 by former U.S. ambassadors regarding Ambassador Yovanovitch.

Fourth, CREW requests copies of any and all communications sent to former U.S. ambassadors by Secretary Pompeo, or anyone acting on his behalf, in response to letters regarding Ambassador Yovanovitch sent by former U.S. ambassadors in April 2019.

Finally, CREW requests copies of any and all communications sent to House Majority Leader Steny Hoyer and House Foreign Affairs Committee Chairman Eliot Engel by Secretary Pompeo, or anyone acting on his behalf, in response to their April 12, 2019 letter regarding Ambassador Yovanovitch.

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).

According to a recently unsealed indictment against multiple individuals, including Lev Parnas and Igor Fruman, in or about May and June 2018, Mr. Parnas and Mr. Fruman committed to raising \$20,000 for a then-U.S. congressman.¹ Around the same time, Mr. Parnas met with the congressman and sought his assistance in getting the then-U.S. Ambassador to Ukraine removed or recalled.² According to the indictment, Mr. Parnas's "efforts to remove the Ambassador were conducted, at least in part, at the request of one or more Ukrainian government officials."³

According to news reports, the now-former member of Congress who Mr. Parnas met with was Rep. Sessions.⁴ Mr. Parnas told *BuzzFeed News* that during his meeting with Rep. Sessions, he told the congressman that Ambassador Yovanovitch "was disloyal to Trump and

¹ Press Release, [Lev Parnas And Igor Fruman Charged With Conspiring To Violate Straw And Foreign Donor Bans](https://www.justice.gov/usao-sdny/pr/lev-parnas-and-igor-fruman-charged-conspiring-violate-straw-and-foreign-donor-bans), Department of Justice, U.S. Attorney's Office, Southern District of New York, Oct. 10, 2019, available at <https://www.justice.gov/usao-sdny/pr/lev-parnas-and-igor-fruman-charged-conspiring-violate-straw-and-foreign-donor-bans>.

² *Id.*

³ *Id.*

⁴ Abby Livingston, [Pete Sessions is "Congressman 1" in indictment of Rudy Giuliani associates, reports say](https://www.texastribune.org/2019/10/10/pete-sessions-congressman-1-giuliani-associates-indictment/), *The Texas Tribune*, Oct. 4, 2019, available at <https://www.texastribune.org/2019/10/10/pete-sessions-congressman-1-giuliani-associates-indictment/>.

had been ‘bad-mouthing our president about getting impeached.’”⁵ According to *BuzzFeed News*, “On the same date that Parnas posted a Facebook photo of the meeting,” May 9, 2018, “Sessions fired off a letter to Pompeo, saying he should consider firing” Ambassador Yovanovitch.⁶ “I have received notice from close companions that Ambassador Yovanovitch has spoken privately and repeatedly about her disdain for the current administration,” Rep. Sessions wrote.⁷

On May 6, 2019, *Radio Free Europe/RadioLiberty* reported, with confirmation from the State Department, that Ambassador Yovanovitch would be leaving her position that month, two months ahead of schedule.⁸ According to the *Wall Street Journal*, President Trump ordered her removal “after months of complaints from allies outside the administration, including his personal lawyer Rudy Giuliani, that she was undermining him abroad and obstructing efforts to persuade Kyiv to investigate former Vice President Joe Biden.”⁹

Ambassador Yovanovitch testified before three House committees on October 11, 2019, and according to her prepared remarks, she said that “after being asked by the Department in early March to extend my tour until 2020, I was then abruptly told in late April to come back to Washington from Ukraine ‘on the next plane.’”¹⁰ Ambassador Yovanovitch said that the Deputy Secretary of State who had informed her of her shortened term told her that President Trump had “lost confidence” in her and “no longer wished me to serve as his ambassador.”¹¹ According to Ambassador Yovanovitch, the Deputy Secretary of State “added that there had been a concerted campaign against me, and that the Department had been under pressure from the president to remove me since the Summer of 2018. He also said that I had done nothing wrong and that this was not like other situations where he had recalled ambassadors for cause.”¹²

Some current and former U.S. officials sought to defend Ambassador Yovanovitch from the campaign against her before she was removed from her position. On April 12, 2019, House Majority Leader Hoyer and House Foreign Affairs Committee Chairman Engel privately sent a

⁵ 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, *BuzzFeed News*, July 22, 2019, available at <https://www.buzzfeednews.com/article/mikesallah/rudy-giuliani-ukraine-trump-parnas-fruman>.

⁶ *Id.*

⁷ *Id.*

⁸ Christopher Miller, U.S. Ambassador To Ukraine, Openly Criticized By Top Ukrainian Prosecutor, Departing Early, *RadioFreeEurope/RadioLiberty*, May 6, 2019, available at <https://www.rferl.org/a/u-s-ambassador-to-ukraine-openly-criticized-by-top-ukrainian-prosecutor-departing-early/29924924.html>.

⁹ Rebecca Ballhaus, Michael C. Bender, and Vivian Salama, Trump Ordered Ukraine Ambassador Removed After Complaints From Giuliani, Others, *Wall Street Journal*, Oct. 3, 2019, available at <https://www.wsj.com/articles/trump-ordered-ukraine-ambassador-removed-after-complaints-from-giuliani-others-11570137147>.

¹⁰ Open Statement of Marie L. Yovanovitch to the House of Representatives Permanent Select Committee on Intelligence, Committee on Foreign Affairs, and Committee on Oversight and Reform, Oct. 11, 2019, (“Yovanovitch Statement”), available at <https://games-cdn.washingtonpost.com/notes/prod/default/documents/fd70dea5-724b-4c5a-9de8-da11d7d6e9f8/note/33f88507-cb6c-48d2-b673-139f86a5d98a.pdf>.

¹¹ *Id.*

¹² *Id.*

letter to Secretary Pompeo, informing him that they were concerned about “outrageous efforts” to “impugn” Ambassador Yovanovitch’s efforts in Ukraine and encouraging the secretary to “make public statements personally defending your team and those who represent our country from spurious disparagements.”¹³ According to *Foreign Policy*, “a group of former U.S. ambassadors sent a letter to Pompeo” in April 2019 raising concerns about the apparent campaign against Ambassador Yovanovitch.¹⁴

The requested records would shed light on how Secretary Pompeo and the State Department responded to concerns about a “concerted campaign” against an ambassador who was recalled early from her position despite being informed that she “had done nothing wrong.”¹⁵ The requested records also would provide insight into how Secretary Pompeo responded to congressional requests to “personally defend[]” a diplomat who was the target of “outrageous efforts” to “impugn” her.¹⁶

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 blogposts that report on and analyze newsworthy developments regarding government

¹³ Press Release, [Engel & Hoyer Statement on U.S. Ambassador to Ukraine Masha Yovanovitch](https://foreignaffairs.house.gov/2019/5/engel-hoyer-statement-on-u-s-ambassador-to-ukraine-masha-yovanovitch), U.S. House of Representatives Committee on Foreign Relations, May 7, 2019, (“Engel & Hoyer Statement and Letter”), available at <https://foreignaffairs.house.gov/2019/5/engel-hoyer-statement-on-u-s-ambassador-to-ukraine-masha-yovanovitch>; see <https://foreignaffairs.house.gov/cache/files/6/e/6e135623-f3fa-4889-8eb7-c23610a36183/F0A46A066EE71DE1559C41BBDC5C3702.04-12-19-letter-from-ele-hoyer-to-pompeo-on-ambassador-yovanovitch.pdf>.

¹⁴ Robbie Gramer and Amy MacKinnon, U.S. Ambassador to Ukraine Recalled in ‘Political Hit Job,’ *Lawmakers Say*, *Foreign Policy*, May 7, 2019, available at <https://foreignpolicy.com/2019/05/07/us-ambassador-to-ukraine-recalled-in-political-hit-job-lawmakers-say-marie-yovanovitch-lutsenko-right-wing-media-accusations-congress-diplomats-diplomacy/>.

¹⁵ Yovanovitch Statement.

¹⁶ Engel & Hoyer Statement and Letter.

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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.

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 mcorley@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 mcorley@citizensforethics.org or Matthew Corley, 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,

A handwritten signature in blue ink, appearing to read 'Matthew Corley', with a stylized flourish at the end.

Matthew Corley
Chief Investigator