

October 9, 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 copies of all communications between Dale W. Perry and Suriya Jayanti, a State Department foreign service officer stationed at the U.S. Embassy in Kyiv, from March 1, 2019 to the present.

Second, CREW requests copies of all communications to or from Ms. Jayanti between March 1, 2019 and the date of this request that mention, refer, or relate to Mr. Perry, Andrew Favorov, Naftogaz, Lev Parnas, Igor Fruman, Harry Sargeant III, or the removal of now-former U.S. Ambassador to Ukraine Marie Yovanovitch from her position.

Finally, CREW requests a copy of a memo dated April 12, 2019 that Mr. Perry provided to the U.S. Embassy in Kyiv.

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).

In March 2019, Mr. Parnas, Mr. Fruman, and Mr. Sargeant, businessmen with political connections to President Trump and his personal attorney, Rudy Giuliani, promoted a plan to replace Andriy Kobolyev, the chief executive officer of Naftogaz, a state gas company in Ukraine, with Mr. Favorov, a senior executive at the company.<sup>1</sup> According to the *Associated Press*, the three businessmen “approached Favorov with the idea while the Ukrainian executive was attending an energy industry conference in Texas. Parnas and Fruman told him they had flown in from Florida on a private jet to recruit him to be their partner in a new venture to export up to 100 tanker shipments a year of U.S. liquefied gas into Ukraine, where Naftogaz is the largest distributor, according to two people briefed on the details. Sargeant told Favorov that he regularly meets with [President] Trump at Mar-a-Lago and that the gas-sales plan had the president’s full support, according to the two people who said Favorov recounted the discussion to them.”

Mr. Perry, an American who is the managing partner of Energy Resources of Ukraine, told the *Associated Press* that Mr. Favorov “described the meeting to him soon after it happened and that Favorov perceived it to be a shakedown.”<sup>2</sup> The *Associated Press* also spoke to a second person who said Mr. Favorov had recounted details of the story to him. Both Mr. Perry and the unnamed confirming source also told the *Associated Press* that “Favorov said Parnas told him Trump planned to remove U.S. Ambassador Marie Yovanovitch and replace her with someone more open to aiding their business interests.”<sup>3</sup> Concerned about what he heard, Mr. Perry said he reported what he had heard to Ms. Jayanti. Mr. Perry also “wrote a detailed memo about Favorov’s account, dated April 12, which was shared with another current State Department official” at the U.S. Embassy in Kyiv.<sup>4</sup>

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<sup>1</sup> Desmond Butler, Michael Biesecker and Richard Lardner, [Profit, not politics: Trump allies sought Ukraine gas deal](https://www.apnews.com/d7440cffba4940f5b85cd3dfa3500fb2), *Associated Press*, Oct. 7, 2019, available at <https://www.apnews.com/d7440cffba4940f5b85cd3dfa3500fb2>.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

The *Associated Press* also noted how the businessmen's "plan hit a snag after Ukrainian President Petro Poroshenko lost his reelection bid to Volodymyr Zelenskiy," but "the effort to install a friendlier management team at the helm of the gas company, Naftogaz, would soon be taken up with Ukraine's new president by U.S. Energy Secretary Rick Perry, whose slate of candidates included a fellow Texan who is one of Perry's past political donors."<sup>5</sup> It is unclear, however, if Secretary Perry's advocacy for the replacement of Naftogaz board members was related to the plans promoted by the three businessmen.

The requested records would shed light on how the State Department responded to information it received concerning an alleged effort by American businessmen to shake up the management of Ukraine's state gas company and that the U.S. Ambassador would be replaced with someone "more open to aiding their business interests."<sup>6</sup> The requested records also would provide insight into whether Secretary Perry's encouragement for board changes at the same state gas company had any relation to the alleged efforts that were reported to the embassy.

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](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 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 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.

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<sup>5</sup> Butler, Biesecker, and Lardner, *Associated Press*, Oct. 7, 2019.

<sup>6</sup> *Id.*

**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](mailto: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](mailto: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,



Matthew Corley  
Chief Investigator