

December 5, 2019

Kevin Krebs
Assistant Director
FOIA/Privacy Unit
Executive Office for United States Attorneys
Department of Justice
175 N Street, N.E.
Suite 5.400
Washington, DC 20530-0001

Re: Expedited Freedom of Information Act Request

Dear Mr. Krebs:

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 U.S. Department of Justice (“DOJ”) regulations.

Specifically, CREW requests copies of all records of budgets, expenses, salaries, and costs of the investigation being conducted by United States Attorney John H. Durham of the U.S. Attorneys’ Office for the District of Connecticut as they relate to his review into the origins of the government’s investigation into interference in the 2016 election.

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).

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Please be advised that CREW intends to pursue all legal remedies to enforce its right under the FOIA to access these documents. Accordingly, because litigation reasonably is foreseeable, DOJ should institute an agency-wide preservation hold on documents potentially responsive to this request.

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).

Attorney General William P. Barr reportedly assigned John H. Durham, the United States attorney in Connecticut, to investigate the opening of the Russian investigation.¹ The Durham investigation is one of several that are examining Russian interference in the 2016 campaign and coordination with the Trump Campaign.² While the Mueller investigation concluded “that there was insufficient evidence to charge a broader conspiracy,”³ Attorney General Barr has continued to pursue an inquiry into the origins of the initial investigation and recent reports have suggested that this inquiry is considering criminal charges.⁴

There are serious concerns regarding Attorney General Barr’s involvement in Special Counsel Robert S. Mueller’s investigation into Russia’s interference in the 2016 election, as well as his impartiality when he issued a four-page letter to Congress purporting to summarize Special Counsel Mueller’s report prior to its public release in an apparent attempt to skew public opinion

¹ Adam Goldman, Charlie Savage, Michael S. Schmidt, [Barr Assigns U.S. Attorney in Connecticut to Review Origins of Russia Inquiry](https://www.nytimes.com/2019/05/13/us/politics/russia-investigation-justice-department-review.html), *The New York Times*, March. 13, 2019, available at <https://www.nytimes.com/2019/05/13/us/politics/russia-investigation-justice-department-review.html>.

² Katie Benner, Adam Goldman, [Justice Dept. Is Said to Open Criminal Inquiry Into Its Own Russia Investigation](https://www.nytimes.com/2019/10/24/us/politics/john-durham-criminal-investigation.html), *The New York Times*, Oct. 24, 2019, available at <https://www.nytimes.com/2019/10/24/us/politics/john-durham-criminal-investigation.html>.

³ Philip Bump, [Trump’s mantra was once ‘no collusion, no obstruction.’ It isn’t anymore](https://www.washingtonpost.com/politics/2019/05/29/trumps-mantra-was-once-no-collusion-no-obstruction-it-isnt-anymore/), *The Washington Post*, May 29, 2019, available at <https://www.washingtonpost.com/politics/2019/05/29/trumps-mantra-was-once-no-collusion-no-obstruction-it-isnt-anymore/>.

⁴ Josh Gerstein, [DOJ inquiry into 2016 election becomes criminal investigation](https://www.politico.com/news/2019/10/24/2016-election-criminal-investigation-justice-000296), *Politico*, October 24, 2019, available at <https://www.politico.com/news/2019/10/24/2016-election-criminal-investigation-justice-000296>.

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in favor of President Trump.⁵ This creates an appearance of impropriety, yet Attorney General Barr continues to stay involved in the subsequent Durham investigation.

The Durham investigation is utilizing American taxpayer dollars in order to continue this unfounded criminal investigation. In an attempt to shed light on that, CREW is requesting all records of budgets, expenses, salaries, and costs of the investigation being conducted by John H. Durham into the origins of the government's investigation into interference in the 2016 election.

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").

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 the 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

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⁵ Letter from Noah Bookbinder to Attorney General William P. Barr, Apr. 11, 2019, *available at* <https://bit.ly/2IN1ZXe>; Letter from Noah Bookbinder to Assistant Attorney General Lee J. Lofthus, May 20, 2019, *available at* <https://bit.ly/2Mis3LH>.

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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 affect 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 the request is enclosed.

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) 894-7058 or hhammado@citizensforethics.org. Where possible, please produce records in electronic format. Please send the requested records to me either at hhammado@citizensforethics.org or Hajar I. Hammado, 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,



Hajar Hammado
Policy Assistant

encl.