

February 11, 2020

BY EMAIL: usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia@mail.mil

U.S. Army Freedom of Information Act Office Records Management and Declassification
Agency
9301 Chapek Rd. Bldg 1458
Fort Belvoir, VA 22060-5605

Re: Freedom of Information Act Request

Dear FOIA Officer,

Citizens for Responsibility and Ethics in Washington (“CREW”) makes this request pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, and U.S. Army (“Army”) regulations.

Specifically, CREW requests the following:

1. Pursuant to Army Regulation 614-100 § 5-1(1), copies of any waiver exempting the February 7, 2020 reassignment of Army Lt. Col. Alexander Vindman from the 36 month “time on station” requirement.
2. Pursuant to Army Regulation 614-100 § 5-1(5), copies of any records relating to any exception cited for reassigning Lt. Col. Alexander Vindman without a “time on station” waiver.
3. Copies of any and all other records related to considerations or factors behind the reassignment of Army Lt. Col. Alexander Vindman.
4. Pursuant to Army Regulation 614-100 § 5-1(1), copies of any waiver exempting the February 7, 2020 reassignment of Army Lt. Col. Yevgeny Vindman from the 36 month “time on station” requirement.
5. Pursuant to Army Regulation 614-100 § 5-1(5), copies of any records relating to any exception cited for reassigning Lt. Col. Yevgeny Vindman without a “time on station” waiver.
6. Copies of any and all other records related to considerations or factors behind the reassignment of Army Lt. Col. Yevgeny Vindman.

Please search for records created between October 1, 2019 to the date the Army conducts the search.

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). If 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 Army 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).

The requested records are likely to contribute to greater public understanding of the reasoning and rationale behind the reassignment of Lt. Col. Vindman. Lt. Col. Vindman is an Army officer who, while serving on the National Security Council, gave testimony in the House impeachment inquiry of President Trump. This testimony was averse to the President. Vindman, a Ukraine expert, testified in supported of the contention that President Trump withheld vital Ukraine aid in return for the announcement of investigations into his political rival.¹ Immediately after the President was acquitted, Vindman was reassigned to the Pentagon.²

Army Lt. Col. Yevgeny Vindman is the twin brother of Lt. Col. Alexander Vindman, who served as an ethics attorney at the National Security Council at the same time his brother. Yevgeny Vindman was reassigned to the Pentagon at the same time as Alexander Vindman.

There is significant public and media interest in these records. The requested records may show if, and to what extent both Lt. Cols. Vindman were involuntarily reassigned in retaliation for Alexander Vindman's truthful testimony harmful to the President.

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

¹ Michael D. Shear, Vindman and Williams: What We Learned From Their Testimony, *The New York Times*, Nov. 19, 2019, <https://nyti.ms/2UFangJ>.

² Peter Baker, et. al., Trump Fires Impeachment Witnesses Gordon Sondland and Alexander Vindman in Post-Acquittal Purge, *The New York Times*, Feb. 7, 2020, <https://nyti.ms/2tPz7YG>.

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 documents it receives under the FOIA on its website, and those documents have been visited hundreds of thousands of times.

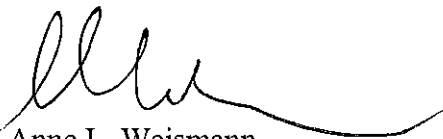
Under these circumstances, CREW satisfies fully the criteria for a fee waiver.

Conclusion

If you have any questions about this request or foresee any problems in fully releasing the requested records, please contact me at (202) 894-7053 or aweismann@citizensforethics.org. Also, if CREW's request for 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 aweismann@citizensforethics.org or at Anne Weismann, 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,



Anne L. Weismann
Chief FOIA Counsel

