

February 14, 2020

BY DOJ-FOIA.ENTELLITRAK.COM

Douglas Hibbard
Chief, Initial Request Staff
Office of Information Policy
Department of Justice
6th Floor
441 G Street, NW
Washington, DC 20530

Re: Freedom of Information Act Request

Dear Mr. Hibbard:

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 Justice (“DOJ”) regulations.

First, CREW seeks all documents between April 30, 2019 and February 4, 2020 concerning or reflecting any investigation, review, or other action taken by DOJ regarding or in response to Representative Adam Schiff’s request for an investigation into Erik Prince.

Second, CREW seeks all calendar entries from April 30, 2019 to the present for Attorney General William Barr reflecting appointments, including but not limited to in-person meetings or telephone conversations, related to Mr. Prince.

Third, CREW seeks all communications from April 30, 2019 to the present relating to Mr. Prince between DOJ and (1) President Trump; (2) employees within the Executive Office of the President; (3) Betsy DeVos; (4) Mr. Prince; (5) attorneys or representatives acting on behalf of Mr. Prince, including Matthew Schwartz and Victoria Toensing; or (6) the U.S. Attorney’s Office handling any investigation into Mr. Prince’s activities. This request includes without limitation the Office of the Attorney General, the Office of the Deputy Attorney General, the Office of the Associate Attorney General, and Legislative Affairs.

Fourth, CREW seeks all internal DOJ communications to or from General Barr relating to Mr. Prince between April 30, 2019 to the present.

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 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).

On April 30, 2019, Adam Schiff, Chairman of the House Permanent Select Committee on Intelligence (the “Committee”) referred Erik Prince to DOJ for criminal investigation.¹ Representative Schiff alleged that Mr. Prince misled the Committee during its investigation of Russian interference in the 2016 presidential election, and asked DOJ to determine whether Mr. Prince should be criminally charged with lying to Congress.² According to Representative Schiff, Mr. Prince’s November 2017 testimony before the Committee was “replete with manifest and substantial falsehoods that materially impaired the Committee’s investigation.”³

In February 2020, DOJ indicated that it would review Representative Schiff’s request for an investigation into Mr. Prince’s congressional testimony.⁴ The Department provided no explanation as to why almost ten months passed before it acknowledged Representative Schiff’s request, although it apologized for the delay.⁵ One week after DOJ indicated it would review the allegations, the *Wall Street Journal* reported that DOJ is nearing a decision on whether to charge

¹ Letter from Adam Schiff, Chairman, House Permanent Select Comm. on Intelligence, to William P. Barr, Att’y Gen., Dep’t of Justice (Apr. 30, 2019), https://intelligence.house.gov/uploadedfiles/20190430_cmn_letter_to_ag_re_prince.pdf.

² *Id.*

³ *Id.*

⁴ Letter from Stephen E. Boyd, Asst. Att’y Gen., Dep’t of Justice, to Adam Schiff, Chairman, House Permanent Select Comm. on Intelligence (Feb. 4, 2020), https://s.wsj.net/public/resources/documents/DOJprinceletter02042020.pdf?mod=article_inline.

⁵ See *id.*

Mr. Prince.⁶ In addition to charges related to making false statements to Congress, DOJ is apparently considering whether Mr. Prince violated U.S. export laws.⁷

Several individuals focused on the Prince case have raised concerns that Attorney General William Barr will “quash” the investigation against Mr. Prince.⁸ Recently, *NBC News* reported that General Barr has been taking control of legal matters of personal interest to President Donald Trump.⁹ For example, General Barr and his aides intervened to withdraw a stiff sentencing recommendation by career prosecutors in the case against Trump associate Roger Stone—shortly after President Trump tweeted that the sentencing recommendation was unfair.¹⁰ Several former DOJ officials have argued that DOJ’s reversal on the recommendation suggests alarming political interference in the criminal justice process.¹¹ Mr. Prince, the brother of Secretary of Education Betsy DeVos, is also a Trump ally and was involved in President Trump’s campaign and transition.¹²

The requested records will shed light on the extent to which any DOJ investigation or review related to Mr. Prince has been influenced by political considerations or by DOJ officials seeking to accommodate the President. The records will also contribute to greater public understanding of the delay between Representative Schiff’s criminal referral and the public acknowledgement of DOJ’s review, including whether that delay politically motivated. The public has a significant interest in ensuring that DOJ’s investigations are not subject to improper interference and that DOJ conducts those investigations in a fair and impartial manner.

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

⁶ Aruna Viswanatha and Julie Bykowicz, [DOJ Nears Decision on Whether to Charge Blackwater Founder Erik Prince](https://www.wsj.com/articles/doj-nears-decision-on-whether-to-charge-blackwater-founder-erik-prince-11581442121), *Wall Street Journal*, Feb. 11, 2020, <https://www.wsj.com/articles/doj-nears-decision-on-whether-to-charge-blackwater-founder-erik-prince-11581442121>.

⁷ *Id.*

⁸ Alex Henderson, [Critics of Blackwater mercenary Erik Prince fear AG Barr will ‘quash’ DOJ case against him: report](https://www.rawstory.com/2020/02/critics-of-blackwater-mercenary-erik-prince-fear-ag-barr-will-quash-doj-case-against-him-report/), *RawStory*, Feb. 12, 2020, <https://www.rawstory.com/2020/02/critics-of-blackwater-mercenary-erik-prince-fear-ag-barr-will-quash-doj-case-against-him-report/>; Colin Kalmbacher, [Erik Prince Is Accused of Lying to Congress Multiple Times. Is William Barr About to Bury the Case?](https://lawandcrime.com/high-profile/erik-prince-is-accused-of-lying-to-congress-multiple-times-is-william-barr-about-to-bury-the-case/), *Law & Crime*, Feb. 11, 2020, <https://lawandcrime.com/high-profile/erik-prince-is-accused-of-lying-to-congress-multiple-times-is-william-barr-about-to-bury-the-case/>.

⁹ Carol E. Lee, Ken Dilanian, and Peter Alexander, [Barr takes control of legal matters of interest to Trump, including Stone sentencing](https://www.nbcnews.com/politics/justice-department/barr-takes-control-legal-matters-interest-trump-including-stone-sentencing-n1135231), *NBC News*, Feb. 11, 2020, <https://www.nbcnews.com/politics/justice-department/barr-takes-control-legal-matters-interest-trump-including-stone-sentencing-n1135231>.

¹⁰ Matt Zapotosky and Devlin Barrett, [Barr faces fresh scrutiny over Stone sentencing controversy](https://www.washingtonpost.com/national-security/barr-faces-fresh-scrutiny-over-stone-sentencing-controversy-2020/02/12/3650c62e-4ddc-11ea-9b5c-eac5b16dafa_story.html), *Washington Post*, Feb. 12, 2020, https://www.washingtonpost.com/national-security/barr-faces-fresh-scrutiny-over-stone-sentencing-fiasco/2020/02/12/3650c62e-4ddc-11ea-9b5c-eac5b16dafa_story.html.

¹¹ Lee, Dilanian, and Alexander, *NBC News*, Feb. 11, 2020.

¹² Viswanatha and Bykowicz, *Wall Street Journal*, Feb. 11, 2020; Jeremy Scahill and Matthew Cole, [The Persistent Influence of Trump’s “Shadow Adviser” Erik Prince](https://theintercept.com/2019/11/05/erik-prince-trump-ukraine-china/), *The Intercept*, Nov. 5, 2019, <https://theintercept.com/2019/11/05/erik-prince-trump-ukraine-china/>.

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) 408-5565 or jlutkenhaus@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 jlutkenhaus@citizensforethics.org or at Jessica Lutkenhaus, 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,



Jessica Lutkenhaus
Legal Fellow