

February 20, 2020

BY FOIAONLINE.GOV

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: Freedom of Information Act Request

Dear Mr. Krebs:

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 from November 22, 2017 to the present reflecting or including recommendations to the Attorney General or Deputy Attorney General from U.S. Attorney for the District of Utah John W. Huber arising from or relating to the review assigned to Mr. Huber by then-Attorney General Jefferson B. Sessions III on November 22, 2017 (the “Review”).

Second, CREW seeks all communications regarding the Review from February 14, 2019 to the present between the U.S. Attorney’s Office for the District of Utah and the Office of the Attorney General or the Office of the Deputy Attorney General.

Third, CREW seeks all communications regarding the Review from February 14, 2019 to the present between the U.S. Attorney’s Office for the District of Utah and (1) President Trump; (2) White House employees, including anyone with an “*.eop.gov” email domain; or (3) attorneys or representatives acting on behalf of President Trump.

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 Justice 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 November 2017, then-Attorney General Jefferson B. Sessions III requested that John W. Huber, U.S. Attorney for the District of Utah, “review” certain matters raised in letters from members of Congress.¹ Although Mr. Sessions did not precisely describe the scope of Mr. Huber’s review, his request appeared to encompass claims of misconduct at the FBI as well as several allegations of misconduct related to Hillary Clinton.² Mr. Sessions asked Mr. Huber to “make recommendations to [the Attorney General] or the Deputy Attorney General,” including “whether any matters not currently under investigation warrants the opening of an investigation, whether any matters currently under investigation require further resources or further investigation, and whether any matters would merit the appointment of a Special Counsel.”³

In May 2019, Attorney General William Barr indicated that the scope of Mr. Huber’s review had narrowed to include only the Clinton-related matters, which were nearing completion.⁴ General Barr said in an interview that the DOJ Inspector General was handling the review of potential FBI misconduct, with John H. Durham, the U.S. Attorney for the District of Connecticut, “taking over” Mr. Huber’s role as the attorney on “standby” for any criminal referrals arising from the Inspector General review.⁵ With respect to the Clinton allegations,

¹ Letter from Jefferson B. Sessions III, Att’y Gen., to John W. Huber, U.S. Att’y for the Dist. of Utah, Nov. 22, 2017, available at <https://www.americanoversight.org/document/doj-letter-from-jeff-sessions>.

² *Id.*; Letter from Stephen E. Boyd, Asst. Att’y Gen., to Robert W. Goodlatte, Chairman, House Comm. on the Judiciary, Nov. 13, 2017, available at <https://www.americanoversight.org/document/doj-letter-from-jeff-sessions>; see also Thomas Burr and Pamela Manson, *U.S. attorney for Utah is investigating GOP-raised concerns about the FBI surveilling Trump aide and about Clinton’s uranium ties*, *Salt Lake Tribune*, Mar. 30, 2018, <https://bit.ly/2uZqqvo>.

³ Letter from Sessions to Huber, Nov. 22, 2017.

⁴ *William Barr interview: Read the full transcript*, *CBS News*, May 31, 2019, <https://cbsn.ws/38HTAxv>.

⁵ *Id.*

General Barr said that Mr. Huber’s review of those issues was “winding down.”⁶ General Barr responded affirmatively when asked “This is his role, it’s done?”⁷

In January 2020, the *Washington Post* reported that the Huber investigation “has effectively ended with no tangible results.”⁸ According to the *Post*, this development “enraged” President Trump, who has since become “more insistent that Durham finish his work soon.”⁹ Shortly thereafter, *NBC News* reported that General Barr has been taking control of legal matters of personal interest to President Trump,¹⁰ and more than 2,500 former DOJ officials called for General Barr’s resignation.¹¹

The requested records will contribute to greater public understanding of the status and outcome of Mr. Huber’s investigation, a politically sensitive matter of significant congressional and public interest. The requested records will also shed light on whether Mr. Huber’s investigation was influenced by the President or DOJ officials seeking to accommodate the President. President Trump and General Barr’s reported politically-motivated interference in cases of interest to President Trump, and the President’s apparent anger about the course of Mr. Huber’s investigation, raise serious concerns about whether the investigation has been free from political interference.

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

⁶ *Id.*

⁷ *Id.*

⁸ Devlin Barrett and Matt Zapotosky, *Justice Dept. winds down Clinton-related inquiry once championed by Trump. It found nothing of consequence*, *Washington Post*, Jan. 9, 2020, <https://wapo.st/3bTtKZp>.

⁹ Devlin Barrett, Matt Zapotosky, and Josh Dawsey, *Barr pushes back against Trump’s criticism of Justice Dept., says tweets ‘make it impossible for me to do my job.’* *Washington Post*, Feb. 13, 2020, <https://wapo.st/2SZln63>.

¹⁰ Carol E. Lee, Ken Dilanian, and Peter Alexander, *Barr takes control of legal matters of interest to Trump, including Stone sentencing*, *NBC News*, Feb. 11, 2020, <https://www.nbcnews.com/politics/justice-department/barr-takes-control-legal-matters-interest-trump-including-stone-sentencing-n1135231>.

¹¹ *DOJ Alumni Statement on the Events Surrounding the Sentencing of Roger Stone*, *Medium*, Feb. 16, 2020, <https://medium.com/@dojalumni/doj-alumni-statement-on-the-events-surrounding-the-sentencing-of-roger-stone-c2cb75ae4937>.

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,

A handwritten signature in cursive script that reads "Jessica Lutkenhaus".

Jessica Lutkenhaus
Legal Fellow