

February 24, 2020

BY EFOIA.FBI.GOV

Federal Bureau of Investigation
Attn: FOI/PA Request
Record/Information Dissemination Section
170 Marcel Drive
Winchester, VA 22602-4843

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 Justice (“DOJ”) regulations.

First, CREW seeks all communications from December 1, 2018 to the present relating to Erik Prince between the Federal Bureau of Investigation (“FBI”) and (1) President Donald J. Trump; (2) employees within the Executive Office of the President, including anyone with an “*.eop.gov” email domain; (3) Secretary of Education Betsy DeVos; or (4) Attorney General William Barr.

Second, CREW seeks copies of all FBI calendar entries from December 1, 2018 to the present reflecting appointments of any kind, including but not limited to in-person meetings or telephone conversations, with (1) President Trump; (2) employees within the Executive Office of the President, including anyone with an “*.eop.gov” email domain; (3) Secretary DeVos; or (4) General Barr. This request is limited to appointments concerning Mr. Prince.

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 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 an investigation that appears to be separate from Mr. Schiff’s criminal referral.

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*

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.*

⁶ Aruna Viswanatha and Julie Bykowitz, *DOJ Nears Decision on Whether to Charge Blackwater Founder Erik Prince*, *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*, *RawStory*, Feb. 12, 2020, <https://www.rawstory.com/2020/02/critics-of-blackwater-mercenary-erik-prince->

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 Indeed, *The Intercept* recently reported that Mr. Prince has bragged that he is untouchable under President Trump and will face no legal troubles.¹³

The requested records will shed light on the extent to which any FBI investigation or review related to Mr. Prince has been influenced by political considerations or by government officials seeking to accommodate the President. The public has a significant interest in ensuring that the FBI’s investigations are not subject to improper interference and that the FBI 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 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

[fear-ag-barr-will-quash-doj-case-against-him-report/](https://www.washingtonpost.com/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://www.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://www.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-fiasco/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/>.

¹³ Matthew Cole, [The FBI Is Investigating Erik Prince for Trying to Weaponize Crop Dusters](https://theintercept.com/2020/02/20/erik-prince-fbi-investigation-trump-barr/), *The Intercept*, Feb. 20, 2020, <https://theintercept.com/2020/02/20/erik-prince-fbi-investigation-trump-barr/>.

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 black ink that reads "Jessica Lutkenhaus". The signature is written in a cursive style with a large, looped initial "J".

Jessica Lutkenhaus
Legal Fellow