

February 10, 2020

By Email

Douglas Hibbard
Chief, Initial Request Staff
Office of Information Policy
U.S. Department of Justice
Suite 11050
1425 New York Avenue, N.W.
Washington, D.C. 20530-0001

Re: Expedited Freedom of Information Act Request

Dear Mr. Hibbard:

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.

First, CREW requests records of all communications between Attorney General William Barr and Sen. Lindsey Graham (R-SC), from September 1, 2019 to the date the search is conducted, related to or mentioning Ukraine, Hunter Biden, Joe Biden, Rudy Giuliani, and/or Burisma.

Second, CREW requests all records related to the creation and execution of any “process” through which the Department of Justice accepts, assesses, and/or verifies information provided by Mr. Giuliani, or anyone acting on his behalf, including but not limited to any information related to Ukraine, Hunter Biden, Joe Biden, and/or Burisma; any assessment of that information by the Department of Justice; and any related communications with Mr. Giuliani or anyone acting on his behalf.

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, and anyone who was 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).

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).

For months, former New York City Mayor Rudy Giuliani, who serves as a private attorney to President Donald Trump, has conducted what the House Permanent Select Committee on Intelligence has described as a “campaign to pressure Ukraine’s newly-elected President to initiate investigations into Joe Biden, who had officially entered the race for the Democratic nomination on April 25, and the baseless conspiracy theory about Ukrainian interference in the 2016 election.”¹ Mr. Giuliani’s efforts, which included a request for a meeting with Ukrainian President Volodymyr Zelensky that Giuliani said was made with President Trump’s “knowledge and consent,” were a significant element of President Trump’s impeachment by the House of Representatives for abusing his power when he solicited the government of Ukraine “to publicly announce investigations that would benefit his reelection, harm the election prospects of a political opponent, and influence the 2020 United States presidential election to his advantage.”² Mr. Giuliani has also engaged in a media campaign to publicize allegations against the Bidens based on interviews he conducted with former Ukrainian officials who have provided him with questionable information.³

On February 9, 2020, Sen. Graham stated on *CBS News*’ “Face The Nation” that he had spoken to Attorney General Barr that morning and had been told that the Justice Department had

¹ U.S. House of Representatives Permanent Select Committee on Intelligence, The Trump-Ukraine Impeachment Inquiry Report, available at <https://bit.ly/39fJBj4>.

² House Resolution 755, 116th Congress, First Session, Articles of Impeachment Against Donald John Trump, December 18, 2019, available at <https://bit.ly/2UFjVbH>; U.S. House of Representatives Permanent Select Committee on Intelligence, The Trump-Ukraine Impeachment Inquiry Report, December 2019, available at <https://bit.ly/2UzmUSX>; Tom Winter, Daren Gregorian, and Josh Lederman, *Giuliani sought private meeting with Ukrainian president, documents show*, *NBC News*, January 14, 2020, available at <https://nbcnews.to/3bra3Ie>.

³ Michael Calderone, *‘Stunning piece of propaganda’: Journalists blast One America News series*, *Politico*, December 19, 2019, available at <https://politi.co/2w62w1v>; Sean Collins, *Giuliani returns from Ukraine with new, very questionable “evidence” that the Bidens committed “multiple crimes”*, *Vox*, December 16, 2019, available at <https://bit.ly/2Scp890>.

“created a process that Rudy could give information and they would see if it’s verified.”⁴ Asked during the interview if he was saying the Justice Department had “been ordered to investigate the Bidens,” Sen. Graham said, “No. The Department of Justice is receiving information coming out of Ukraine from Rudy.”⁵ Attorney General Barr subsequently acknowledged on February 10, 2020, that the Justice Department had set up an “intake process” to receive information from Ukraine, including from Mr. Giuliani.⁶ “We had established an intake process in the field so that any information coming in about Ukraine could be carefully scrutinized by the department and its intelligence community partners, so that we could assess its provenance and its credibility,” Attorney General Barr said. “And that is true for all information that comes to the department relating to the Ukraine, including anything Mr. Giuliani might provide.”⁷

The Justice Department has previously sought to distance itself and Attorney General Barr from Mr. Giuliani’s efforts in Ukraine on behalf of President Trump. When the rough transcript of President Trump’s July 25, 2019 phone call with Ukrainian President Zelensky was released, revealing that President Trump had told President Zelensky that he would have both Mr. Giuliani and Attorney General Barr call him about the investigations he was interested in, the Justice Department released a statement saying that “The President has not spoken with the Attorney General about having Ukraine investigate anything relating to former Vice President Biden or his son” and “Nor has the Attorney General discussed this matter, or anything relating to Ukraine, with Rudy Giuliani.”⁸ The Justice Department further distanced itself from Mr. Giuliani following reports that he had met with the head of the Justice Department’s Criminal Division and other Justice Department lawyers at a time when close associates of his were under investigation by the U.S. Attorney’s office in the Southern District of New York, which eventually led to indictments, saying the lawyers would not have met with Mr. Giuliani “had they known” about the investigation.⁹ Attorney General Barr also briefly attended the meeting with Mr. Giuliani, but a spokesperson said that while he had previously been briefed on the investigation of Mr. Giuliani’s associates “he was not informed of any allegation of wrongdoing involving Rudy Giuliani.”¹⁰ According to news reports, the Southern District of New York is also investigating Mr. Giuliani himself, including for whether his Ukraine dealings ran afoul of lobbying laws.¹¹

The requested records will shed light on the Justice Department’s handling of high-profile but questionable information from the president’s personal attorney that relates to one of the president’s political rivals, involves allegations that were a significant factor in the House’s

⁴ Transcript: Lindsey Graham on “Face the Nation,” February 9, 2020, *CBS News*, February 9, 2020, available at <https://cbsn.ws/2OExjsA>.

⁵ *Id.*

⁶ Michael Balsamo, Barr: Justice has process to take Ukraine info from Giuliani, *Associated Press*, February 10, 2020, available at <https://wapo.st/39p1ZpQ>.

⁷ *Id.*

⁸ Sean Collins, 5 questions Attorney General William Barr should answer about Trump’s call with President Volodymyr Zelensky, *Vox*, September 25, 2019, available at <https://bit.ly/31HSE9P>.

⁹ Katie Benner, Justice Department Distances Itself From Giuliani, *New York Times*, October 20, 2019, available at <https://nyti.ms/2OITRZr>.

¹⁰ Evan Perez and David Shortell, Barr dropped into Giuliani meeting at Justice Department in previously undisclosed encounter, *CNN*, January 17, 2020, available at <https://cnn.it/2Sd0dSW>.

¹¹ Michael S. Schmidt, Ben Protess, Kenneth P. Vogel, and William K. Rashbaum, Giuliani Is Said to Be Under Investigation for Ukraine Work, *New York Times*, October 11, 2019, available at <https://nyti.ms/31HFXM6>.

impeachment of President Trump, and may become a further point of contention in the 2020 election. The records are also likely to contribute to public understanding of how Justice Department officials, including Attorney General Barr, interact with individuals who are reportedly under investigation by the Department and whom the Department has publicly sought to distance itself from.

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.

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

Request for Expedition

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 DOJ's Director of Public Affairs; a copy of that request is enclosed.

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 mcorley@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 mcorley@citizensforethics.org or Matthew Corley, 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,



Matthew Corley
Chief Investigator