

February 7, 2020

BY E-MAIL: FinCENFOIA@fincen.gov

FOIA Request
FinCEN Disclosure Office
P.O. Box 39
Vienna, VA 22183
FOIA Requester Center
Washington, D.C. 20220

Re: Expedited Freedom of Information Act Request

Dear FOIA Officer:

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 Treasury Department regulations.

First, CREW requests copies of all communications, both within the Treasury Department and externally, including but not limited to communications with the White House, the Executive Office of the President, Congress and/or anyone using an email address on an eop.gov, house.gov, or senate.gov domain, between November 15, 2019 and the date the search is conducted related to Sens. Charles Grassley (R-IA) and Ron Johnson’s (R-WI) November 15, 2019 letter to Director Ken A. Blanco requesting copies of Suspicious Activity Reports (SARs) and related documents for 11 individuals or entities, including Hunter Biden.

Second, CREW requests copies of all correspondence with Sens. Grassley and Johnson, or anyone representing them, between November 15, 2019 and the date the search is conducted as well as any and all documents produced in response to Sens. Grassley and Johnson’s November 15 letter, excluding SARs.

Third, CREW requests copies of all records relating to the processing of this FOIA request.

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 Treasury 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).

On November 15, 2019, Sens. Grassley and Johnson sent a letter to Director Blanco requesting a copy of all SARs and related documents filed regarding 11 individuals or entities, including Hunter Biden and Burisma Holdings.¹ Sens. Grassley and Johnson stated their request was related to “an investigation into potentially improper actions by the Obama administration with respect to Burisma Holdings (Burisma) and Ukraine.”² Sens. Grassley and Johnson requested that FinCEN “provide these documents no later than December 5, 2019.”³

According to a spokesperson for Sen. Ron Wyden (D-OR), the Ranking Member of the Senate Finance Committee, the Treasury Department is “rapidly complying with Senate Republican requests” and “producing ‘evidence’ of questionable origin.”⁴ Sen. Wyden’s staff contrasted the voluntary “lightning speed” cooperation with the Trump administration’s stonewalling of subpoenaed documents and witnesses during the impeachment inquiry.⁵ Sen. Wyden, along with Senate Banking Committee Ranking Member Sherrod Brown (D-OH), previously raised concerns responses to about requests for SARs being “prioritized according to political interests” on December 5, 2019, writing in a letter to Director Blanco that “Information requests from Congress, including legitimate Committee oversight requests related to [SARs], often take months to process, and we understand that certain such requests have yet to be answered at all. In general, Congressional requests for such information should be handled in the

¹ Letter from Senate Finance Committee Chairman Charles Grassley and Senate Homeland Security and Governmental Affairs Chairman Ron Johnson to Financial Crimes Enforcement Network Director Ken A Blanco, November 15, 2019, available at <https://tmsnrt.rs/39gsFZB>.

² *Id.*

³ *Id.*

⁴ Luppe B. Luppen, [Treasury Department sent information on Hunter Biden to expanding GOP Senate inquiry](https://www.yahoo.com/news/treasury-department-sent-information-on-hunter-biden-to-expanding-gop-senate-inquiry-1200000000.html), *Yahoo! News*, February 6, 2020, available at <https://yhoo.it/38arJWB>.

⁵ *Id.*

order they are received, and prompt responsiveness by FinCEN is vital.”⁶ The Treasury Department reportedly “began turning over materials less than two months after Grassley and Johnson wrote FinCEN on Nov. 15, 2019.”⁷

Allegations related to Burisma and Mr. Biden were at the center of the impeachment of President Donald Trump, in which the House found that President Trump “abused the powers of the Presidency” 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.”⁸ One of the investigations President Trump sought to induce involved Mr. Biden and his father, former Vice President Joe Biden, who is running for president and is a potential opponent of President Trump.⁹ Sen. Wyden’s office suggested that Sens. Grassley and Johnson’s requests were a continuation of President Trump’s efforts, saying, “Republicans are turning the Senate into an arm of the president’s political campaign, pursuing an investigation designed to further President Trump’s favorite conspiracy theory that Ukraine interfered in the 2016 election and smear Vice President Biden.”¹⁰

The requested records would shed light on how the Treasury Department responds to congressional oversight, particularly regarding high profile and sensitive information. The records would also help clarify whether Sens. Wyden and Brown’s concerns that responses to information requests from Congress are potentially being prioritized according to political interests are well-founded. In these ways, they would reveal important information about the functioning and decisions of the Treasury Department.

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 Press Release, United States Senate Committee on Finance, Wyden, Brown Demand Assurances Investigative Requests Handled Fairly, December 5, 2019, available at <https://bit.ly/3bkKzwh>.

⁷ Luppen, *Yahoo! News*, February 6, 2020.

⁸ 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>.

⁹ *Id.*

¹⁰ Luppen, *Yahoo! News*, February 6, 2020.

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 reports on and analysis of newsworthy developments regarding government ethics, corruption, and money in politics that 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.

Request for Expedition

Pursuant to 32 C.F.R. § 321 Subpart A, § 1.5(e)(ii), CREW requests that this request be expedited because of the urgency to inform the American public about a matter of current exigency. The information requested by Sens. Grassley and Johnson is directly relevant to activity that led to the third impeachment of a president in history, which centered on evidence indicating that President Trump sought an investigation on the same subjects from a foreign government in order to benefit himself in the 2020 election. The suggestion by Sen. Wyden’s office that the Treasury Department may be prioritizing the response to the request for political reasons is extremely concerning, particularly since it involves information that may become a further point of contention in the 2020 election. The American public has an urgent need to understand how the Treasury Department is responding politically sensitive requests and if any partisan or political considerations are involved.

Moreover, as set forth above, CREW is primarily engaged in disseminating information and therefore meets the expedition requirements of 32 C.F.R. § 321 Subpart A, § 1.5(e)(ii).

I, the undersigned, declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge. Executed on February 7, 2020.

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 at mcorley@citizensforethics.org or at Matthew Corley, Citizens for Responsibility and Ethics in Washington, 1101 K St., Ste. 201, N.W., Washington, D.C. 20005. Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Matthew Corley', with a long horizontal flourish extending to the right.

Matthew Corley
Chief Investigator