

February 24, 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: 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.

CREW requests records of all communications from Attorney General William Barr and Brian Bencowski from November 1, 2018 to the date the search is conducted, related to or mentioning “1MDB,” or “1Malaysia Development Berhad.”

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).

Goldman Sachs is currently preparing to plead guilty to bribery and pay a fine for the bank's involvement in one of the biggest financial crimes of all time. The bank was involved in raising billions of dollars for 1Malaysia Development Berhad (1MDB), which were then stolen from the fund.¹

Both Attorney General William Barr and the head of the Justice Department's Criminal Division, Brian Benczkowski used to work for Kirkland & Ellis, the law firm representing Goldman Sachs in the case, and both of them got ethics waivers to work on the matter. Barr has reportedly "directly immersed himself in the 1MDB case."² Now it looks like Goldman will be getting off with a significantly smaller fine than they could have—up to \$2 billion rather than the maximum of \$9 billion some analysts predicted.³

The requested records will shed light on the Justice Department's handling of a high-profile case in which two of the department's most powerful figures have a conflict of interest. The records will also contribute to the public understanding of Barr's apparent pattern of using his position at DOJ to push for lower sentences for politically connected entities or individuals, like Roger Stone. If Attorney General Barr and Brian Benczkowski intervened to help Goldman Sachs avoid a higher penalty than it could have received, the public needs to know.

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

¹ By Emily Flitter and Matthew Goldstein. Goldman Is in Talks to Settle Malaysia Fund Scandal. New York Times. December 19, 2019. See:

<https://www.nytimes.com/2019/12/19/business/goldman-sachs-1mdb.html>

² By Jesse Hamilton, Benjamin Bain, Sridhar Natarajan, and Tom Schoenberg. U.S. Is Discussing Goldman 1MDB Settlement Below \$2 Billion. Bloomberg. December 6, 2019. See:

<https://www.bloomberg.com/news/articles/2019-12-06/u-s-is-said-to-discuss-goldman-1mdb-settlement-below-2-billion>

³ *Id*

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 blog posts 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.

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 lhonl-stuenkel@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 lhonl-stuenkel@citizensforethics.org or Linnaea Honl-Stuenkel, 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,

Linnaea Honl-Stuenkel