

June 3, 2020

BY EMAIL: FOIA@uss.s.dhs.gov

Kevin Tyrrell
United States Secret Service
Communications Center (FOIA/PA)
245 Murray Lane, SW Building T-5
Washington, D.C. 20223

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 Homeland Security (“DHS”) regulations.

Specifically, CREW requests:

- 1) All documents or communications regarding President Donald Trump’s trip to St. John’s Church on June 1, 2020;
- 2) All documents related to the policies of the Secret Service governing the treatment of peaceful protesters.

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 DHS 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 the evening of June 1, 2020, President Trump announced in an address from the White House Rose Garden that he was prepared to deploy the United States military in order to end “the riots and lawlessness that has spread throughout our country.”¹ President Trump also said he was “taking swift and decisive action to protect our great capital, Washington, D.C.” and that he was “putting everybody on warning” that the city’s “seven o’clock curfew will be strictly enforced.”² Shortly before the president’s remarks, “authorities fired flash-bang shells, gas and rubber bullets into the crowd” of protesters that were peacefully gathered by Lafayette Square across from the White House, clearing a path for President Trump to walk to St. John’s Episcopal Church for a photo opportunity immediately following his remarks.³ Secret Service agents, along with the Park Police and members of the National Guard, were reportedly involved in the clearing of the protestors.⁴

The violent removal of protestors for the apparent purpose of allowing President Trump to pose in front of the historic church, footage of which the White House quickly turned into what has been compared to both a propaganda video and a campaign ad,⁵ sparked criticism across the political spectrum. “Tear-gassing peaceful protestors without provocation just so that the President could pose for photos outside a church dishonors every value that faith teaches us,” House Speaker Nancy Pelosi (D-CA) and Senate Democratic Leader Chuck Schumer (D-NY) said in a joint statement.⁶ “If your question is, should you use tear gas to clear a path so the president can go have a photo-op, the answer is no,” Sen. Tim Scott (R-SC) told *Politico*.⁷

While the White House would not tell reporters who gave the order to aggressively clear the park, Justice Department officials claimed the next day that Attorney General William Barr

¹ Statement of the President, June 1, 2020, available at <https://www.whitehouse.gov/briefings-statements/statement-by-the-president-39/>.

² *Id.*

³ Ashley Parker, Josh Dawsey, and Rebecca Tan, “Inside the push to tear gas protestors ahead of a Trump photo op,” *Washington Post*, June 1, 2020, available at https://www.washingtonpost.com/politics/inside-the-push-to-tear-gas-protesters-ahead-of-a-trump-photo-op/2020/06/01/4b0f7b50-a46c-11ea-bb20-ebf0921f3bbd_story.html.

⁴ Peter Hermann and Fenit Nirappil, “District’s mayor, police chief struggle to allow protestors to be heard while quelling mayhem,” *Washington Post*, June 1, 2020, available at https://www.washingtonpost.com/local/dc-politics/bowser-newsham-defend-police-response-on-second-night-of-protests-mayhem/2020/06/01/6df6db90-a3fe-11ea-bb20-ebf0921f3bbd_story.html.

⁵ *See* <https://twitter.com/CREWcrew/status/1267791147738509313>; <https://twitter.com/McFaul/status/1267688858075856896>.

⁶ Press Release, Pelosi, Schumer Joint Statement on Trump Press Conference & Photo Op, June 1, 2020, available at <https://www.speaker.gov/newsroom/6120-1>.

⁷ Max Cohen, “Tim Scott: Lafayette Square should not have been cleared for Trump,” *Politico*, June 2, 2020, available at <https://www.politico.com/news/2020/06/02/tim-scott-lafayette-square-trump-296238>.

personally ordered law enforcement to extend the perimeter around Lafayette Park soon before President Trump spoke and that he gave the order “regardless of any plans of the president.”⁸ The requested records will help clarify the chain of events and whether law enforcement officials, including Secret Service agents, were ordered to violently disperse Americans exercising their First Amendment rights for the President’s publicity purposes. The records will also shed light on the Secret Service’s policies for engaging with peaceful protesters and whether the actions in Lafayette Park are consistent with those policies.

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 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 documents it receives under the FOIA on its website, which has 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 mcorley@citizensforethics.org. Also, if CREW’s request for expedition and/or a fee waiver is not granted in full, please contact our office immediately upon making such a determination.

⁸ Alex Ward, “The White House’s explanation for a tear gas attack on peaceful protesters doesn’t add up,” *Vox*, June 1, 2020, available at <https://www.vox.com/2020/6/1/21277611/white-house-tear-gas-attack-trump-george-floyd>; Matt Zapotosky, “Barr personally asked for protesters to be pushed back from D.C. park just before Trump spoke,” *Washington Post*, June 2, 2020, available at <https://www.washingtonpost.com/nation/2020/06/02/george-floyd-protests-live-updates/#link-44GHB2FFFFERJCVPW7CL6UPFNI>.

Where possible, please produce records in electronic format. Please send the requested records to me either at 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,

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

Matthew Corley
Chief Investigator