

July 10, 2020

BY EMAIL: foia@hq.dhs.gov

U.S. Department of Homeland Security
Chief Privacy Officer/Chief FOIA Officer
The Privacy Office
245 Murray Lane, SW, Stop 0655
Washington, D.C. 20528-0655

Re: Freedom of Information Act Request

Dear Sir/Madam,

Citizens for Responsibility and Ethics in Washington (“CREW”) makes this request pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, and Department of Homeland Security (“DHS”) regulations.

First, CREW requests all documents and communications created, sent, or received from June 1, 2020 to present referring or relating to the creation of the Protecting American Communities Task Force (“PACT”), including but not limited to any requests from any source for resources to protect monuments, memorials, or statues.

Second, CREW requests all documents created, sent, or received from June 1, 2020 to present pertaining, concerning, or reflecting any guidance, instruction, directive, or recommendation on how to re-direct DHS funds, personnel, or other resources to facilitate the creation and operation of the PACT. Specifically, CREW requests any documents regarding the number of officials assigned to the PACT’s activities, as well as the cost of these activities, and the budget source from which all costs will be paid.

Third, CREW requests any communication or records of communications created, sent, or received from June 1, 2020 to present between any DHS employees in the Office of the Secretary with the Senate Committee on Homeland Security and Government Affairs (“HSGAC”), the House Committee on Homeland Security, the Senate Committee on Appropriations Subcommittee on Homeland Security or House Committee on Appropriations Subcommittee on Homeland Security referring or related to the PACT.

Fourth, CREW requests all documents created or received from June 1, 2020 to present pertaining, concerning, or reflecting any policies, guidance, instruction, or directive regarding the creation, deployment, or pre-positioning of Rapid Deployment Teams (RDT). This request includes but is not limited to any policies or guidance regarding the criteria for deployment or pre-positioning of RDT.

Please search for responsive records regardless of format, medium, or physical characteristics. CREW seeks records of any kind, including paper records, electronic records, audiotapes, videotapes, photographs, data, and graphical material. CREW’s 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. CREW's request also includes any attachments to emails and other records, as well as emails to which the subjects of this request were cc'ed or bcc'ed.

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).

Fee Waiver Request

In accordance with 5 U.S.C. § 552(a)(4)(A) and DHS 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 noncommercial purposes. *See Judicial Watch, Inc. v. Rossotti*, 326 F.3d 1309, 1312 (D.C. Cir. 2003) (“Congress amended FOIA to ensure that it be liberally construed in favor of waivers for noncommercial requesters.” (quotation marks omitted)).

On June 26, 2020, the President issued an “Executive Order on Protecting American Monuments, Memorials, and Statues and Combating Recent Criminal Violence,” which directed DHS to provide personnel to assist with the protection of federal monuments, memorials, statues, or property.¹ In response, on July 1, 2020, Acting Secretary of Homeland Security, Chad Wolf, announced the creation of the PACT.² Secretary Wolf described the PACT as “a special task force to coordinate [DHS] law enforcement agency assets in protecting our nation’s historic monuments, memorials, statues, and federal facilities.”³ However, as news reports and congressional letters sent to the Secretary demonstrate, basic questions remain about the basic organization, structure, and resourcing of the PACT.⁴ Additionally, in the lead up to the July 4th

¹ *Executive Order on Protecting American Monuments, Memorials, and Statues and Combating Recent Criminal Violence*, WHITE HOUSE, June 26, 2020, <https://www.whitehouse.gov/presidential-actions/executive-order-protecting-americanmonuments-memorials-statues-combating-recent-criminal-violence/>.

² *Press Release: DHS Announces New Task Force to Protect American Monuments, Memorials, and Statues*, DEPT. OF HOMELAND SECURITY, July 1, 2020 <https://www.dhs.gov/news/2020/07/01/dhs-announces-new-task-force-protect-americanmonuments-memorials-and-statues> (hereinafter *DHS Press Release*).

³ *Id.*

⁴ Luke Barr, *DHS Launches Rapid Deployment Teams to Federal Monuments over the July 4th Weekend*, *ABC News*, July 1, 2020, <https://abcnews.go.com/Politics/dhs-launches-rapid-deployment-teams-federal-monuments-july/story?id=71552901>; Letter from House Committee on Homeland Security Chairman Bennie G. Thompson to Acting Secretary of Homeland Security Chad Wolf, July 6, 2020, at 2

holiday, Secretary Wolf “directed the deployment and pre-positioning of Rapid Deployment Teams (RDT) across the country to respond to potential threats to facilities and property.”⁵ However, very little is known about the policies and guidance regulating “the deployment and pre-positioning” of these RDT.⁶ In particular, nothing is known regarding the criteria used to identify when and where RDT deployment and pre-positioning are warranted.⁷

The requested records will shed light on the circumstances surrounding DHS’s use of funds and personnel during the heightened challenges to DHS mission critical priorities presented by the coronavirus pandemic. These records are likely to contribute to greater public understanding of the creation, funding, and resourcing of the PACT, and its related operations, including the deployment and pre-positioning of RDT. Additionally, the creation of the PACT and deployment and pre-positioning of RDT represent precisely the increased militarized response to protests triggered by the killing of George Floyd, that senior Defense officials and criminal justice advocates express “serious concern” about.⁸ The PACT was abruptly assembled and during a time when DHS is expending resources on mission critical issues including protecting Americans from the coronavirus, securing border security, and confronting the opioid crisis.⁹ The public deserves to know where the money and personnel for the PACT and its associated activities have come from, and during this critical time what other DHS funds or resources may have been re-directed for this purpose.

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

<https://homeland.house.gov/imo/media/doc/2020-07-06%20T%20DHS%20Act%20Sec%20-%20Monuments%20.pdf> (noting DHS’s failure to “provide even basic information about the number of employees who will be assigned to this effort [PACT] or the taxpayer money that will be expended on it” and claiming, “This basic information should have been available given that the Department announced it would be deploying [RDT] in advance of the 4th of July holiday.”) (hereinafter *Thompson Letter*)

⁵ DHS Press Release.

⁶ Barr, *ABC News*, July 1, 2020; *Thompson Letter*.

⁷ Barr, *ABC News*, July 1, 2020 (“The Department [...] would not provide specifics as to what the [RDT] would do and how many personnel would be deployed. It is also unclear whether DHS is responding to any specific threat or planned protest.”).

⁸ Barr, *ABC News*, July 1, 2020 (“Our government should be focusing resources on keeping communities of color safe and investing resources in investigating threats to the wellbeing of these communities not turning additional law enforcement resources against them and further militarizing our streets.” (quotation marks omitted)); Ryan Browne, Senior Pentagon Officials are Concerned About the Appearance of Police and Law Enforcement Officers, *CNN*, June 23, 2020, <https://edition.cnn.com/2020/06/23/politics/pentagon-concerns-militarization-police/index.html>; Terry Gross, Militarization of Police Means U.S. Protestors Face Weapons Designated for War, *NPR*, July 1, 2020, <https://www.npr.org/2020/07/01/885942130/militarization-of-police-means-u-s-protesters-face-weapons-designed-for-war>.

⁹ *In Focus*, DEPT. OF HOMELAND SECURITY, June 30, 2020, <https://www.dhs.gov/focus>.

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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 a blog that reports on and analyzes 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 all documents it receives under the FOIA 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 aweismann@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 aweismann@citizensforethics.org or Anne L. Weismann, Citizens for Responsibility and Ethics in Washington, 1101 K St, N.W., Suite 201, Washington, D.C. 20005. Thank you for your assistance in this matter.

Sincerely,



Anne L. Weismann
Chief FOIA Counsel