

May 23, 2007

By fax (202-514-1009) and first-class mail

Melanie Ann Pustay
Director, Policy and Litigation
Office of Information and Privacy
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 Ms. Pustay:

Citizens for Responsibility and Ethics in Washington (“CREW”) makes this request for records, regardless of format, medium, or physical characteristics, and including electronic records and information, audiotapes, videotapes and photographs, pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. §§ 552, et seq.

Specifically, CREW seeks the following records:

(1) all emails sent to or from Mark McKinnon and any former or current Department of Justice (“DOJ”) employee in the Offices of the Attorney General, Deputy Attorney General and/or Associate Attorney General concerning any aspect of the congressional inquiry into the firing of U.S. Attorneys;

(2) all emails sent to or from any individual or individuals at Maverick Media, Inc. and any former or current Department of Justice (“DOJ”) employee in the Offices of the Attorney General, Deputy Attorney General and/or Associate Attorney General concerning any aspect of the congressional inquiry into the firing of U.S. Attorneys;

(3) all emails sent to or from any individual or individuals at Public Strategies, Inc. and any former or current Department of Justice (“DOJ”) employee in the Offices of the Attorney General, Deputy Attorney General and/or Associate Attorney General concerning any aspect of the congressional inquiry into the firing of U.S. Attorneys.

Where possible, please produce records electronically, in PDF or TIF format on a CD-ROM.

If it is your position that 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), cert. denied, 415 U.S. 977 (1972). As you are aware, a Vaughn index must describe each document claimed as exempt with sufficient specificity “to permit a reasoned judgment as to whether the material is actually exempt under FOIA.” Founding Church of Scientology v. Bell, 603 F.2d 945, 949 (D.C. Cir. 1979). Moreover, the Vaughn index must “describe each document or portion thereof withheld, and for **each** withholding it must discuss the consequences of supplying the sought-after information.” King v. U.S. Dep’t of Justice, 830 F.2d 210, 223-24 (D.C. Cir. 1987) (emphasis added). Further, “the withholding agency must supply ‘a relatively detailed justification, specifically identifying the reasons why a particular exemption is relevant and correlating those claims with the particular part of a withheld document to which they apply.’” Id. at 224 (citing Mead Data Central v. U.S. Dep’t of the Air Force, 566 F.2d 242, 251 (D.C. Cir. 1977)).

In the event that 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. Mead Data Central, 566 F.2d at 261. Claims of nonsegregability must be made with the same degree of detail as required for claims of exemptions in a Vaughn index. If a request is denied in whole, please state specifically that it is not reasonable to segregate portions of the record for release.

Fee Waiver Request

In accordance with 5 U.S.C. § 552(a)(4)(A)(iii) and 28 C.F.R. § 16.11(k), 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 expenditures, and the disclosures will likely contribute to a better understanding of relevant government procedures by CREW and the general public in a significant way. Moreover, the request is primarily and fundamentally for non-commercial purposes. 5 U.S.C. § 552(a)(4)(A)(iii). See, e.g., McClellan Ecological v. Carlucci, 835 F.2d 1282, 1285 (9th Cir. 1987). Specifically, these records are likely to contribute to the public’s understanding of the extent to which the Department of Justice, including with the assistance of the White House, has sought assistance from outside public relations companies to handle messaging and damage control from the controversy involving the Department’s firing of U.S. Attorneys and the resulting controversy.

CREW is a non-profit corporation, organized under section 501(c)(3) of the Internal Revenue code. CREW is committed to the protection of the citizen’s right to be aware of the activities of government officials and to ensuring the integrity of those officials. CREW is dedicated to empowering citizens to have an influential voice in government decisions and in the government decision-making process. CREW uses a combination of research, litigation, and

advocacy to advance its mission. The release of information garnered through this request is not in CREW's financial interest. CREW will analyze the information responsive to this request, and will likely share its analysis with the public, either through memorandums, reports or press releases. In addition, CREW will disseminate any documents it acquires from this request to the public. CREW has established an interactive website where members of the public can analyze and comment on public documents, including documents CREW acquires through the FOIA. See <http://foia.citizensforethics.org/home>. Currently, CREW's website contains links to thousands of pages of documents CREW acquired from multiple FOIA requests. CREW's website, www.citizensforethics.org, also includes documents relating to CREW's FOIA litigation, Internal Revenue complaints, and Federal Election Commission complaints. As CREW's website demonstrates, CREW has an established history of acquiring documents through the FOIA and publishing them on its website for public use.

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

Request for Expedition

Pursuant to 5 U.S.C. § 552(a)(6)(E)(1) and 28 C.F.R. § 16.5(d)(iv), CREW requests that the Department of Justice expedite the processing of this request. As required by Department of Justice regulations, 28 C.F.R. § 16.5(d)(2), CREW is submitting its request for expedition to the Director of Public Affairs. A copy of CREW's request is enclosed.

CREW also requests that DOJ expedite its request pursuant to 28 C.F.R. § 16.5(d)(ii). As explained above, CREW is engaged primarily in the dissemination of information that it gathers from a variety of sources, including the FOIA, and seeks the information requested in this FOIA for the express purpose of disseminating it to the public. CREW's website contains numerous examples of its efforts, including reports it has published based on information it receives. CREW recently publishes a report, Without a Trace: The Story Behind the Missing White House E-Mails and the Violations of the Presidential Records Act, that details the record-keeping practices of the White House and how they violate federal records laws.

Moreover, there is a particular urgency in informing the public about the degree to which the varying public explanations DOJ has offered regarding the termination of nine U.S. Attorneys were shaped by the input and influence of Mark McKinnon and his companies. The actions of the DOJ in this regard have resulted in serious questions being raised about the integrity of DOJ. The public has a need to know the full facts underlying the differing justifications that high-level DOJ officials, including the Attorney General, have offered for their actions. Under these circumstances, CREW satisfies the requirements for expedition.

Pursuant to 28 C.F.R. § 16.5(d)(3), I hereby certify that the basis for CREW's request for expedition, as outlined above, is true and correct to the best of my knowledge and belief.

Conclusion

If you have any questions about this request or foresee any problems in releasing fully the requested records on an expedited basis, please contact me at (202) 408-5565. Also, if CREW's request for a fee waiver is not granted in full, please contact our office immediately upon making such determination. Please send the requested documents to Anne L. Weismann, Citizens for Responsibility and Ethics in Washington, 1400 Eye Street, N.W., Suite 450, Washington, D.C. 20005.

Sincerely,



ANNE L. WEISMANN
Chief Counsel

Enclosure

cc: Tasio Scolinos

CREW | citizens for responsibility and ethics in washington

May 23, 2007

By fax (202-514-5331) and first-class mail

Tasio Scolinos
Director
Office of Public Affairs
U.S. Department of Justice
Room 1128
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530-0001

Re: FOIA Request for Expedition

Dear Ms. Scolinos:

Pursuant to U.S. Department of Justice (“DOJ”) Freedom of Information Act (“FOIA”) regulations, specifically 28 C.F.R. § 16.5(d)(2), Citizens for Responsibility and Ethics in Washington (“CREW”) requests that its request for expedition of the enclosed FOIA request of this date be granted.¹

CREW’s request seeks emails sent to or from the Offices of the Attorney General, Deputy Attorney General, Associate Attorney General and Mark McKinnon, Maverick Media, Inc. and Public Strategies, Inc. concerning any aspect of the congressional inquiry into the firing of U.S. Attorneys.

CREW requests expedition in light of the widespread and exceptional media interest in this matter and the questions that have been raised about not only DOJ’s reasons for the firings, but also the differing public explanations DOJ has offered for its actions. As a result, there are substantial concerns about the integrity of DOJ that affect public confidence in both the Attorney General and the agency that he heads. See, e.g., Sean Cockerham, McKay Suggests Cover-Up in Prosecutor Case, The Olympian, May 20, 2007; Dan Eggen and Paul Kane, House GOP Stands Behind Gonzales, The Washington Post, May 11, 2007; Dan Eggen, Justice Dept. Won’t Release All Documents Lawmakers Seek, The Washington Post, April 27, 2007.² Newly released DOJ emails also show that the White House hired Mark McKinnon of Maverick Media Inc., who is

¹ CREW’s FOIA is enclosed as Attachment 1.

² These articles are enclosed as Attachment 2.

also vice-chairman of Public Strategies Inc., “to handle damage control in the aftermath of the US attorney scandal.” Matt Renner, White House Coordinated With GOP Consultant on US Attorney Scandal, *Truthout*, May 22, 2007 (enclosed as Attachment 3).

In light of this widespread and exceptional media interest and the possible questions about the government’s integrity affecting public confidence, CREW satisfies the DOJ requirements for expedition. See 28 C.F.R. § 16.5(d)(1)(iv). Moreover, as CREW explained in its FOIA request, CREW is a non-profit corporation engaged primarily in disseminating information it gathers from a variety of sources, including the FOIA, and seeks the information requested in this FOIA request for the express purpose of disseminating it to the public. CREW’s website, www.citizensforethics.org, contains links to thousands of pages of documents CREW acquired from multiple FOIA requests, as well as documents related to CREW’s FOIA litigation, Internal Revenue complaints and Federal Election complaints.

For the foregoing reasons, as well as those set forth in CREW’s FOIA request of May 23, 2007, CREW requests that its FOIA request be expedited.

Pursuant to 28 C.F.R. § 16.5(d)(3), I hereby certify that the basis for CREW’s request for expedition is true and correct to the best of my knowledge and belief.

Sincerely,



ANNE L. WEISMANN
Chief Counsel

Enclosures

cc: Melanie Ann Pustay