

RELEASE IN FULL**CREW** | citizens for responsibility
and ethics in washington

December 6, 2012

By facsimile: 202-261-8579

Office of Information Programs and Services
A/ISS/IPS/RL
U.S. Department of State, SA-2
Washington, D.C. 20522-8100

Re: Freedom of Information Act Request

Dear FOIA Officer:

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552 *et seq.*, and U.S. Department of State (State) regulations, 2 C.F.R. § 171, Citizens for Responsibility and Ethics in Washington (CREW) requests records sufficient to show the number of email accounts of or associated with Secretary Hillary Rodham Clinton, and the extent to which those email accounts are identifiable as those of or associated with Secretary Clinton. By "identifiable" we mean the extent to which the email account is in a name that would permit the public to identify it as an account of the secretary. Please note CREW does not seek the full email address(es) to the extent that would include any exempt information.

Please search for responsive records regardless of format, medium, or physical characteristics. Where possible, please produce records electronically, in PDF or TIF format on a CD-ROM. We seek records of any kind, including electronic records, audiotapes, videotapes, and photographs.

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)).

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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.

Finally, CREW welcomes the opportunity to discuss with you whether and the extent to which this request can be narrowed or modified to better enable DOJ to process it within the FOIA's deadlines. Toward that end, please feel free to contact me at 202-408-5565 or aweismann@citizensforethics.org.

Fee Waiver Request

In accordance with 5 U.S.C. § 552(a)(4)(A)(iii) and 22 C.F.R. § 171.17, 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 likely will contribute to a better understanding of relevant government procedures by CREW and the general public in a significant way. Moreover, the request primarily and fundamentally is 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 greater public awareness of the extent to which Secretary Clinton, like the administrator of the Environmental Protection Agency (EPA), use email accounts not readily identifiable as her accounts. Recently it was reported that Administrator Jackson established alias email accounts to conduct official government business, including an account under the name "Richard Windson," which is not publicly attributable to her. See Brendan Sasso, House Republicans Question EPA Over Secret Email Accounts, *The Hill*, November 17, 2012 (attached as Exhibit A). Apparently this practice of alias accounts dates back to former EPA Administrator Carol Browner. Through this FOIA, CREW seeks to learn how widespread this practice is, and to evaluate the extent to which it has led to unresponsive responses to FOIA, discovery, and congressional requests, and a failure to preserve records in a way that complies with the Federal Records Act.

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 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

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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. In addition, CREW will disseminate any documents it acquires from this request to the public through www.scribd.com and CREW's website, which also contains links to thousands of pages of documents CREW acquired from multiple FOIA requests. See www.citizensforethics.org. CREW's website includes documents relating to CREW's FOIA litigation, Internal Revenue complaints, and Federal Election Commission complaints.

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

News Media Fee Waiver Request

CREW also asks that it not be charged search or review fees for this request because CREW qualifies as a "representative of the news media" pursuant to the FOIA. In *Nat'l Sec. Archive v. U.S. Dep't of Defense*, 880 F.2d 1381, 1386 (D.C. Cir. 1989), the Court of Appeals for the District of Columbia Circuit found the National Security Archive was a representative of the news media under the FOIA, relying on the FOIA's legislative history, which indicates the phrase "representative of the news media" is to be interpreted broadly; "[i]t is critical that the phrase 'representative of the news media' be broadly interpreted if the act is to work as expected. . . . In fact, any person or organization which regularly publishes or disseminates information to the public . . . should qualify for waivers as a 'representative of the news media.'" 132 Cong. Rec. S14298 (daily ed. Sept. 30, 1986) (emphasis added), cited in *id.*

CREW routinely and systematically disseminates information to the public in several ways. First, CREW maintains a frequently visited website, www.citizensforethics.org, that received 33,571 page views in October 2012. The website reports the latest developments and contains in-depth information about a variety of activities of government agencies and officials. In addition, CREW posts all of the documents it receives under the FOIA on www.scribd.com, and that site has received 2,287,124 visits to CREW's documents since April 14, 2010.

Second, since May 2007, CREW has published an online newsletter, *CREWCuts*, that currently has 15,564 subscribers. *CREWCuts* provides subscribers with regular updates regarding CREW's activities and information the organization has received from government entities. A complete archive of past *CREWCuts* is available at <http://www.citizensforethics.org/newsletter>.

Third, CREW publishes a blog, *Citizens blogging for responsibility and ethics in Washington*, that reports on and analyzes newsworthy developments regarding government ethics and corruption. The blog, located at <http://www.citizensforethics.org/blog>, also provides links that direct readers to other news articles and commentary on these issues. CREW's blog had 5,664 page views in October 2012.

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Finally, CREW has published numerous reports to educate the public about government ethics and corruption, including agencies' failure to comply with their record keeping responsibilities. See *Record Chaos*, which examines agency compliance with electronic record keeping responsibilities; *The Revolving Door*, a comprehensive look into the post-government activities of 24 former members of President Bush's cabinet; and *Those Who Dared: 30 Officials Who Stood Up For Our Country*. These and all other CREW's reports are available at <http://www.citizensforethics.org/reports>.

Based on these extensive publication activities, CREW qualifies for a fee waiver as a "representative of the news media" under the FOIA.

If you have any questions about this request or foresee any problems in releasing fully and the requested records, please contact me at (202) 408-5565. Also, if CREW's request for a fee waiver is not granted in full, please contact me immediately upon making such determination. Please send the requested records 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