

VIA FACSIMILE

March 24, 2017

Information and Privacy Coordinator
Central Intelligence Agency
Washington, D.C. 20505
Fax: 703-613-3007

Dear FOIA Officer,

This letter constitutes a request under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, and is submitted on behalf of the Electronic Privacy Information Center (“EPIC”) to the Central Intelligence Agency “CIA”).

EPIC seeks record in possession of the agency concerning the investigation of the Russian interference with the 2016 Presidential election, as described below.

Former CIA Director John Brennan Former was scheduled to testify at a public hearing on Tuesday, March 28, 2017 before the House Permanent Select Committee on Intelligence concerning the Committee’s investigation into the Russian interference with the 2016 Presidential Election.¹ But on Friday, March 24, 2017, the Committee Chairman, Rep. Devin Nunes (R-Calif.), abruptly announced the cancellation of that public hearing.²

Mr. Brennan previously oversaw the investigation at the CIA. He was called to testify before the Committee because of his specific expertise concerning the Russian interference with the election.

Documents Requested

All records, including communications, memos, and reports, in the possession of the CIA concerning former Director Brennan and the Agency’s investigation into the Russian interference with the 2016 Presidential Election.

¹ Patricia Zengerle, *House intelligence panel leaders split over session on Russia*, Reuters (Mar. 24, 2017), <http://www.reuters.com/article/us-usa-trump-russia-idUSKBN16V29I>.

² @RepAdamSchiff, Twitter (Mar. 24, 2017, 11:16 AM), <https://twitter.com/RepAdamSchiff/status/845293157055107072> (“BREAKING: Chairman just cancelled open Intelligence Committee hearing with Clapper, Brennan and Yates in attempt to choke off public info.”).

Request for Expedited Processing

EPIC is entitled to expedited processing of this request under the FOIA. 5 U.S.C. § 552(a)(6)(E)(v)(II). Specifically, EPIC's request satisfies the agency regulation 32 C.F.R. § 1900.34(c)(2) because this request involves a "compelling need." § 1900.34(c)(2). First, "the request is made by a person primarily engaged in disseminating information," and, second, "the information is relevant to a subject of public urgency concerning an actual or alleged Federal government activity." *Id.*

First, EPIC is an organization "primarily engaged in disseminating information." § 1900.34(c)(2). As the Court explained in *EPIC v. DOD*, "EPIC satisfies the definition of 'representative of the news media'" entitling it to preferred fee status under FOIA. 241 F. Supp. 2d 5, 15 (D.D.C. 2003).

Second there can be no question that there is an "urgency to inform the public" about the details of the CIA investigation into the Russian interference - "an actual or alleged federal government activity." § 1900.34(c)(2). On Monday, March 20, 2017, at the House Intelligence Committee's first public hearing on the matter, FBI Director James Comey announced publicly that the agency was not only investigating Russian efforts to undermine the election, but has an active investigation into possible contacts and collaboration between members of the Trump Team and Russia.³ There are few issues of greater national importance than the integrity of the United States' electoral process and the potential coordination between a U.S. political campaign and a foreign government. The fact that the House Intelligence Committee has cancelled an important public hearing underscores the need for independent public disclosure of Mr. Brennan's work on this matter.

In submitting this request for expedited processing, I certify that this explanation is true and correct to the best of my knowledge and belief. § 552(a)(6)(E)(vi).

Request for "News Media" Fee Status and Fee Waiver

EPIC is a "representative of the news media" for fee classification purposes. *EPIC v. Dep't of Def.*, 241 F. Supp. 2d 5 (D.D.C. 2003). Based on EPIC's status as a "news media" requester, EPIC is entitled to receive the requested record with only duplication fees assessed, 5 U.S.C. § 552(a)(4)(A)(ii)(II).

Further, any duplication fees should also be waived because disclosure of the requested information "is in the public interest because it is likely to contribute significantly to the public understanding of the operations or activities of the United States Government and is not primarily

³ Matthew Rosenberg, Emmarie Huetteman, & Michael S. Schmidt, *Comey Confirms FBI Inquiry on Russia; Sees No Evidence of Wiretapping*, N.Y. Times (Mar. 20, 2017), <https://www.nytimes.com/2017/03/20/us/politics/intelligence-committee-russia-donald-trump.html>.

in the commercial interest” of EPIC, the requester. 32 C.F.R. § 1900.13(c)(2); § 552(a)(4)(A)(iii). EPIC’s request satisfies the six CIA factors for granting a fee waiver. §§ 1900.13(c)(2)(i-vi).

First, the request for former CIA Director Brennan’s investigation records self-evidently “concer[n] the operations or activities of the United States Government.” § 1900.13(c)(2)(i). These records touch the very core of the CIA’s responsibility for collecting, evaluating, and providing intelligence to further the national security interests of the United States.

Second, “the disclosure of the requested documents is likely to contribute to an understanding of United States Government operations or activities” § 1900.13(c)(2)(ii). These documents will provide previously unknown details of the CIA’s investigation of a significant threat from a foreign power.

Third, “the disclosure of the requested documents will contribute to public understanding of United States Government operations or activities.” § 1900.13(c)(2)(iii). A critical part of EPIC’s mission is the aim to inform the public about activities of the federal government through the FOIA. Indeed, as a “news media” requester EPIC is deemed to be “organized and operated to publish or broadcast news to the public.” § 1900.02(h)(3).

Fourth, “disclosure of the requested documents is likely to contribute significantly to public understanding of United States Government operations and activities” because the neither CIA nor the administration have provided the public with full details about the Russian interference investigation. § 1900.13(c)(2)(iv).

Fifth, EPIC, the requester, has no “commercial interest that would be furthered by the requested disclosure.” § 1900.13(c)(2)(v). EPIC is a registered non-profit organization committed to privacy, open government, and civil liberties.⁴

Sixth, “disclosure is not primarily in the commercial interest of the requester.” § 1900.13(c)(2)(vi). As just described, EPIC has no commercial interest in the requested disclosure.

For these reasons, a fee waiver should be granted.

Conclusion

Thank you for your consideration of this request. I anticipate your determination on our request within ten calendar days. 5 U.S.C. § 552(a)(6)(E)(ii)(I); 28 C.F.R. § 16.5(e)(4).

For questions regarding this request I can be contacted at 202-483-1140 x111 or FOIA@epic.org.

⁴ *About EPIC*, EPIC.org, <http://epic.org/epic/about.html>.

Respectfully submitted,

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