

# EXHIBIT E

June 12, 2018

Arnetta Mallory, FOIA Initiatives Coordinator  
National Security Division  
U.S. Department of Justice  
[950 Pennsylvania Avenue, N.W.](#)  
[Room 6150](#)  
[Washington, D.C. 20530-0001](#)  
(202) 233-0754  
[nsdfoia@usdoj.gov](mailto:nsdfoia@usdoj.gov)

Dear Ms. Mallory:

Under the Freedom of Information Act, I request the following records in an electronic format (*provided on a rolling basis as the records are identified and processed*):

1. Tracking Reports, any other tracking or statistical information on referrals from agencies and government sources, crime reports sent, investigations, prosecutions, and other actions related to leaks/unauthorized disclosures of information maintained and/or compiled by the National Security Division since January 2007 - also please provide any data dictionary, code sheets, or other documentation for users detailing the meaning of fields, acronyms, etc. Please provide all field headers in the tracking system even if some of the content in the fields is redacted (see [this link](#) and [this link](#) for examples of leak investigation data in an Automated Case Tracking System provided under FOIA previously).
2. All National Security Division closure letters sent regarding leak investigation since January 2007 (see [this link for an example of such a letter](#) provided under FOIA).
3. Any email correspondence Assistant Attorney General John Demers and any individuals with [who.eop.gov](mailto:who.eop.gov), [mail.house.gov](mailto:mail.house.gov), or [senate.gov](mailto:senate.gov) email addresses regarding “leaks”, “unauthorized disclosures”, “insider threat”, “whistleblowers”, “whistleblowing”, “Comey”, and “McCabe”.
4. Any minutes by Task Forces, Working Groups, Subcommittees, and other Justice Department-convened meetings, including those with the News Media Dialogue Group, regarding “insider threats”, “leaks”, or “unauthorized disclosures” since January 2007 (see [this link for an example](#) of minutes provided under FOIA previously).
5. Any recommendations, analysis, presentation, memo, guidance, and reports—including drafts of the aforementioned—regarding the “Eleven Questions” that are used to assess whether to launch a leak investigation since January 2007 (see [this link for an example of a recommendation](#) provided under FOIA previously).
6. Any recommendations, analysis, presentation, memo, guidance, and reports—including drafts of the aforementioned—regarding leak-related investigations, prosecutions, and sentencing as well as compelling testimony and seeking records from and about journalists and news organizations generally since January 2007.

7. Any recommendations, analysis, presentation, memo, guidance, and reports—including drafts of the aforementioned—regarding investigating or prosecuting “controlled information”, “controlled unclassified information”, “law enforcement sensitive”, “Privacy Act,” or any other form of non-classified, non-public information leaked to the media since January 2007.
8. Any recommendations, analysis, presentation, memo, guidance, and reports—including drafts of the aforementioned—mentioning “Signal”, “Whatsapp”, “Secure Drop”, “Proton Mail”, “Telegram”, and “Confide” since January 2007.
9. All annual reports detailing “Department of Justice Use of Certain Law Enforcement Tools to Obtain Information from, or Records of, Members of the News Media; and Questioning, Arresting, or Charging Members of the News Media” and any other records detailing statistics or tracking information related to subpoenas, including national security letters (also known as exigent letters), for records about members of the media and regarding other non-government sources related to leak investigations, including approvals and denials of subpoenas, since January 2007 (see the [2014](#) and [2015 reports](#) and [this link](#) as an example of such data provided under FOIA previously).
10. Any statistical or other records relating to administrative actions taken against federal employees, contractors, and uniformed military personnel related to leaks to the media since January 2007.
11. Any proposed legislative language, technical remarks on proposed legislation, and other input on legal authorities current or proposed regarding leaks/unauthorized disclosures since January 2007.
12. Any proposed revisions to the Department’s “Policy Regarding Obtaining Information From, Or Records Of, Members Of The News Media; And Regarding Questioning, Arresting, Or Charging Member Of The News Media.”
13. Any records memorializing consultation with the Policy and Statutory Enforcement Unit of the Criminal Division's Office of Enforcement Operations related to leak investigations or other investigations involving the media.
14. Any records requesting the Attorney General’s (or designee) authorization to subpoena members of the news media since January 2007.
15. Any email correspondence Assistant Attorney General John Demers had with individuals in DOJ Office of Public Affairs regarding Reality Winner, Ali Watkins, James Wolfe, leak investigations, media-related subpoenas, or the news media guidance (referred to above as “Policy Regarding Obtaining Information From, Or Records Of, Members Of The News Media; And Regarding Questioning, Arresting, Or Charging Member Of The News Media”).
16. Any guidelines, rules, policies, and proposed revisions or changes involving the aforementioned for using National Security Letters and so-called informal “exigent letters.”

**Please reach out to me with any questions about any part of this request at [nick@pogo.org](mailto:nick@pogo.org) or 202-347-1122 (email preferred).**

If this request is denied in full or in part, please cite each exemptions pursuant to 5 U.S.C. § 552(b) that justifies each denial. Please bear in mind that the foreseeable harm standard must be met before an exemption applies. If an exemption applies, however, please consider exercising the agency's discretionary release powers to disclose the records. Any such action supports the presumption of "openness" on which FOIA is based upon. Additionally, please release all reasonably segregable portions of the records that do not meet an exemption. 5 U.S.C. § 552(b).

### **Fee Waiver Request and Requester Category**

I am making this request on behalf of the Project On Government Oversight (POGO). Founded in 1981, POGO is a news media requester and a nonpartisan independent watchdog that publishes investigative reports.

As a member of the news media, POGO has received nine awards for excellence in journalism in the past several years, including awards from the national Society of Professional Journalists and its Washington, D.C., chapter.

The Project On Government Oversight brings to this request experience and expertise in the subject area and in reporting on government operations for a wide audience that ranges from policymakers to members of the general public.

I request a waiver of all costs associated with fulfilling this submission pursuant to 5 U.S.C. § 552(a)(4)(A)(iii). Disclosure of the requested records will further the "public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest" of the requester, the Project On Government Oversight (POGO). Specifically, POGO intends to use the requested records to highlight for the public the Justice Department's efforts regarding leak investigations, especially those relating to the press. If the request for a fee waiver is denied, please contact me about any incurred expenses prior to supplying the requested records.

- 1) The records concern the operations of the federal government. They concern the Justice Department and other agencies' efforts to investigate and combat unauthorized releases of information.
- 2) The records requested would provide additional details on the last decade of the Justice Department's efforts to investigate unauthorized releases of information. Some similar information was released for the period prior to 2007. This information would cover the decade since. It would also provide more detail about DOJ's efforts beyond public statements by Justice Department and other government officials.
- 3) The records would be likely to contribute to public understanding of what the Justice Department and other agencies are doing to investigate unauthorized disclosures, the

challenges these cases pose both practically but also balanced against other interests such as the First Amendment rights of individuals and the news media.

The Justice Department also recently issued a press release stating, “The Attorney General has stated that investigations and prosecutions of unauthorized disclosure of *controlled information* are a priority of the Department of Justice.” (emphasis added; source: <https://www.justice.gov/usao-dc/pr/former-us-senate-employee-indicted-false-statements-charges>)

The use of the words “controlled information” rather than “classified information” is not a meaningless issue. “Controlled information” captures a much broader swath of information in the government. The records requested could shed light and advance public understanding of the policy impacts of the Justice Department prioritizing the investigations of unauthorized releases involving this broader swath of government information.

4) The records would be a significant contribution because most of this information is not public and little is known despite the importance and potential impacts of these Justice Department activities. Some information previously provided on a proactive basis has not been made public recently, such as the 2016 and 2017 annual reports on “Department of Justice Use of Certain Law Enforcement Tools to Obtain Information from, or Records of, Members of the News Media; and Questioning, Arresting, or Charging Members of the News Media.” The requested records may shed significant light on statements by Attorney General Jeff Sessions last August where he said “we tripled the number of active leak investigations,” “the Department is reviewing policies that impact leak investigations,” “For the past several months, we have already made changes and are seriously ramping up our efforts,” and “Soon after I arrived here in February, I initiated a review of our leak investigations and prosecutions. I reviewed how these cases were being referred and handled and was concerned with what we found.” (source: <https://www.justice.gov/opa/pr/attorney-general-jeff-sessions-delivers-remarks-briefing-leaks-classified-materials>) Additionally, the records will reveal new developments and new data in the almost-year since Sessions made those remarks.

5) POGO does not charge for access to its web site, reports, newsletters, or other publications. In addition, we do not directly profit from increased viewership of our website, as it is advertisement-free.

6) POGO has no financial interest in the requested information and is not a commercial organization. The primary interest in disclosure is that of the public interest. POGO investigates, exposes, and seeks to remedy systemic abuses of power and mismanagement in the federal government. Founded in 1981, POGO is a politically independent, nonprofit watchdog that promotes a government that is accountable to the citizenry. POGO disseminates information about its activities to the public, policymakers, and the media via email, direct mail, and its websites which receives over 100,000 unique views per month. The records provided by your agency will be used for the following activities, which are publicly available: publication by email and on POGO websites; publication in reports and newsletters issued by POGO; publication in the websites and publications of news outlets; efforts to educate Congress, the Executive

Branch, and other policymakers; or in conjunction with other members of the news media. I have specifically published investigative news articles with my byline in [The Washington Post](#), [The Daily Beast](#), [Mother Jones](#), and other publications.

I look forward to your response, including a tracking number, within 20 days of the receipt of this request, unless, in the case of “unusual circumstances,” the time limitation is “extended by written notice.” 5 U.S.C. § 552(a)(6)(B). I am aware that all fees will be waived if specified time limits are not met. 5 U.S.C. § 552(a)(4)(A)(viii). I have a right to appeal if this request is wholly or partially denied or if the agency fails to respond within 20 days, and that, if successful, a federal district court may assess “reasonable attorney fees and other litigation costs.” 5 U.S.C. § 552(a)(4)(E).

Please do not hesitate to call me at [nick@pogo.org](mailto:nick@pogo.org) or (202) 347-1122 (email preferred) to see if I can clarify the request or otherwise expedite and simplify your efforts. Thank you for your prompt attention.

Sincerely,

Nick Schwellenbach  
Director of Investigations  
Project On Government Oversight  
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