

CREW | citizens for responsibility and ethics in washington

January 10, 2019

By facsimile: (202) 514-1009

Sarah Isgur Flores
Director, Office of Public Affairs
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530-0001

Re: Request for Expedition of Freedom of Information Act Request

Dear Ms. Flores:

Pursuant to Department of Justice (“DOJ”) regulations, 28 C.F.R. § 16.5(e)(2), Citizens for Responsibility and Ethics in Washington (“CREW”) requests that you authorize the expedition of a Freedom of Information Act (“FOIA”) request CREW made today to the Office of Legal Counsel (“OLC”). I have enclosed a copy of this request.

The OLC FOIA request seeks copies of all opinions written by OLC that discuss in any way the power of the president to invoke emergency powers to declare a national emergency including, but not limited to, the president’s power to invoke those powers to build a wall or other type of barrier along the U.S. border with Mexico.

CREW seeks expedition because the subject matter of the request is of widespread and exceptional media interest and the requested information involves possible questions about the government’s integrity, which clearly affect public confidence. President Donald Trump and the White House have indicated he is considering invoking emergency powers to declare a national emergency so that he may bypass Congress’ refusal to fund the building of a wall or other barrier along the Mexican border and direct federal officials to go ahead and construct the wall.¹ Vice President Michael Pence stated publicly that the White House Counsel’s Office is examining the president’s ability to declare a national emergency to fund the border wall,² raising serious concerns that the president is considering actions of doubtful legality based on misstated facts and outright falsehoods to make an end-run around Congress’ constitutional authority to make laws and appropriate funds. The requested records will shed light on the legality of the action the president is threatening and the extent to which he may be motivated to advance a political agenda rather than address a true need requiring the invocation of emergency powers. The public

¹ See, e.g., Robert Costa and Philip Rucker, Trump aides lay foundation for emergency order to build wall, saying border is in ‘crisis.’ *Washington Post*, Jan. 7, 2019, available at https://www.washingtonpost.com/politics/trump-lays-groundwork-for-national-emergency-as-officials-argue-border-is-in-crisis/2019/01/07/e0f9aa34-1299-11e9-b6ad-9cfd62dbb0a8_story.html?utm_term=.dccec7d07ada.

² Jim Acosta and Betsy Klein, Pence says White House looking into Trump’s ability to declare border emergency, *CNN*, Jan. 7, 2019, available at <https://www.cnn.com/2019/01/07/politics/border-national-emergency-white-house-counsel/index.html>.

needs to have confidence that if the president takes the extraordinary step of invoking emergency powers in this situation he is acting in the best interests of the nation and not for political gain.

CREW's primary purpose is to inform and educate the public about the activities of government officials and those who influence public officials. Toward that end, CREW uses statutes like the FOIA to gather information the public needs to hold public officials accountable. The request for which CREW seeks expedition will further those goals.

I certify the following is true and correct.

Sincerely,



Anne L. Weismann
Chief FOIA Counsel

encl.