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1400 Eye Street, N.W.  
Suite 450  
Washington, D.C. 20005  
202-408-5565

Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

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CITIZENS FOR RESPONSIBILITY AND :  
ETHICS IN WASHINGTON :  
1400 Eye Street, N.W., Suite 450 :  
Washington, D.C. 20005 :  
:  
Plaintiff, :  
:  
v. :  
CENTRAL INTELLIGENCE AGENCY :  
Washington, D.C. 20505 :  
:  
Defendant. :  

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Civil Action No.

**COMPLAINT FOR DECLARATORY JUDGMENT  
AND INJUNCTIVE RELIEF**

1. This is an action under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, as amended, as well as agency FOIA regulations, challenging the failure of the Central Intelligence Agency (“CIA”) to fulfill the request of plaintiff for documents of communications between the

White House and the CIA regarding Valerie Plame Wilson and/or Joseph Wilson from July 6, 2003 to the present.

2. This case seeks declaratory relief that defendant is in violation of the FOIA for failing to fulfill plaintiff's request for records, and injunctive relief that defendant immediately and fully comply with plaintiff's requests under the FOIA.

### **JURISDICTION AND VENUE**

3. This Court has both subject matter jurisdiction over this action and personal jurisdiction over the parties pursuant to 5 U.S.C. § 552(a)(4)(B). This Court also has jurisdiction over this action pursuant to 28 U.S.C. § 1331. Venue lies in this district under 5 U.S.C. § 552(a)(4)(B).

4. Plaintiff Citizens for Responsibility and Ethics in Washington ("CREW") is a non-profit corporation, organized under section 501(c)(3) of the Internal Revenue code. CREW is committed to protecting the right of citizens to be informed about the activities of government officials and to ensuring the integrity of government officials. CREW is dedicated to empowering citizens to have an influential voice in government decisions and in the government decision-making process. To advance its mission, CREW uses a combination of research, litigation, advocacy and public education. As part of its research, CREW uses government records made available to it under the FOIA.

5. CREW has invested considerable organizational resources in pushing the U.S. government to take ethics issues seriously. CREW monitors closely the laws and rules applicable to government agencies.

6. CREW is harmed by the CIA's failure to comply with the FOIA, because that failure

harms CREW's ability to provide full, accurate, and current information to the public. 5 U.S.C. § 552(a)(6)(c).

7. CREW will analyze the information it receives that is responsive to its request, and will share it with the public through memoranda, reports, or press releases. In addition, CREW will disseminate any documents it acquires from its request to the public through its website, [www.citizensforethics.org](http://www.citizensforethics.org). Currently, the CREW website contains links to thousands of pages of documents acquired from multiple FOIA requests. See <http://citizensforethics.org/activities/foia.php>. Visitors to CREW's website can peruse the FOIA request letters, the responses from government agencies, and a growing number of documents responding to FOIA requests. CREW's virtual reading room provides around-the-clock access to anyone willing to learn about the government activities that have been the focus of CREW's FOIA requests. The CREW website also includes documents relating to CREW's FOIA litigation, Internal Revenue Service complaints, and Federal Election Commission complaints.

8. Defendant CIA is an agency within the meaning of 5 U.S.C. § 552(f). The CIA is in possession and control of the requested records and is responsible for fulfilling plaintiff's FOIA request.

### **STATUTORY FRAMEWORK**

#### **The Freedom of Information Act**

9. The FOIA, 5 U.S.C. § 552, requires agencies of the federal government to release requested records to the public unless one or more specific statutory exemptions apply.

10. An agency must respond to a party making a FOIA request within 20 working days, notifying that party of at least the agency's determination whether or not to fulfill the request, and

of the requester's right to appeal the agency's determination to the agency head. 5 U.S.C. § 552(a)(6)(A)(i).

11. An agency must respond to a FOIA appeal within 20 working days, notifying the appealing party of the agency's determination to either release the withheld records or uphold the denial. 5 U.S.C. § 552(a)(6)(A)(ii).

12. In "unusual circumstances," an agency may delay its response to a FOIA request or appeal, but must provide notice and must also provide "the date on which a determination is expected to be dispatched." 5 U.S.C. § 552(a)(6)(B).

13. This Court has jurisdiction, upon receipt of a complaint, "to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant." 5 U.S.C. § 552(a)(4)(B).

14. The FOIA provides a mechanism for disciplinary action against agency officials who have acted inappropriately in withholding records. Specifically, when requiring the release of improperly withheld records, if the court makes a written finding that "the circumstances surrounding the withholding raise questions whether agency personnel acted arbitrarily or capriciously," a disciplinary investigation is triggered. 5 U.S.C. § 552(a)(4)(F).

15. The FOIA also requires each agency to promulgate regulations specifying a fee schedule for the processing of FOIA requests and establishing procedures and guidelines for the waiver or reduction of fees. 5 U.S.C. § 552(a)(4)(A). Defendant CIA's fee waiver regulations are found at 32 CFR § 1900. Both the FOIA and CIA regulations provide that documents should be produced at no charge to the requester or at a reduced charge if disclosure of the information is in 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. 5 U.S.C. § 552(a)(4)(A)(iii); 32 CFR § 1900.

**FACTS GIVING RISE TO PLAINTIFF'S CLAIMS FOR RELIEF**

16. On February 15, 2007, plaintiff sent a FOIA request to defendant seeking records, regardless of format and including electronic records and information of communications between the White House and the CIA regarding Valerie Plame Wilson and/or Joseph Wilson from July 6, 2003 to the present. Letter from Anne L. Weismann to Information and Privacy Coordinator, Central Intelligence Agency, February 15, 2007 (attached as Exhibit A).

17. CREW also sought a waiver of fees associated with processing its request given that the request concerns the operations of the federal government, the disclosures will likely contribute to a better understanding of relevant government procedures, and the request is primarily and fundamentally for non-commercial purposes. Id.

18. By letter dated February 27, 2007, CIA Information and Privacy Coordinator Scott Koch advised CREW that the CIA had received CREW's February 15, 2007 FOIA request. The letter further advised CREW that its request for expedited processing had been denied. Notably, CREW never requested that the CIA expedite the processing of its FOIA request. See Letter from Scott Koch to Anne L. Weismann, February 27, 2007 (attached as Exhibit B).

19. The statutory time for the CIA to respond to plaintiff's February 15, 2007 FOIA request has run out and CREW has now exhausted its administrative remedies with respect to the processing of its FOIA request. See, e.g., Oglesby v. U.S. Dep't of Army, 920 F.2d 57, 65 (D.C. Cir. 1990).

**PLAINTIFF'S CLAIMS FOR RELIEF**

**CLAIM ONE**

**(Failure to Produce Records)**

20. Plaintiff realleges and incorporates by reference all preceding paragraphs.
21. Plaintiff properly asked for records within the custody and control of the CIA.
22. Plaintiff is entitled by law to access to the records requested under the FOIA, unless defendant makes an explicit and justified statutory exemption claim.

2. Therefore, defendant violated FOIA's mandate to release agency records to the public by failing to release the records as plaintiff specifically requested. 5 U.S.C. §§ 552(a)(3)(A), 55(a)(4)(B)

**PRAYER FOR RELIEF**

WHEREFORE, plaintiff respectfully requests that this Court:

- (1) Declare that the CIA has violated the Freedom of Information Act by failing to lawfully satisfy plaintiff's FOIA request of February 15, 2007;
- (2) Order the CIA to respond to plaintiff's FOIA request immediately;
- (3) Award plaintiff reasonably attorney fees and litigation costs in this action, pursuant to 5 U.S.C. § 552(a)(4)(E); and
- (8) Grant such other and further relief as the Court may deem just and proper.

Respectfully submitted,



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Melanie Sloan  
(D.C. Bar No. 434584)  
Anne L. Weismann  
(D.C. Bar No. 298190)  
Kimberly D. Perkins  
D.C. Bar No. 481460  
Citizens for Responsibility and Ethics  
in Washington  
1400 Eye Street, N.W., Suite 450  
Washington, D.C. 20005  
Phone: (202) 408-5565  
Fax: (202) 588-5020

Attorneys for Plaintiff

Dated: April 2, 2007

**EXHIBIT A**



# CREW | citizens for responsibility and ethics in washington

February 15, 2007

**By fax and first-class mail**

Information and Privacy Coordinator  
Central Intelligence Agency  
Washington, D.C. 20505

**Re: Freedom of Information Act Request**

Dear Sir/Madam:

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. and Central Intelligence Agency ("CIA") regulations, 32 C.F.R. Part 1900.

Specifically, CREW seeks any and all documents dating from July 6, 2003, to the present of communications between the White House and the CIA regarding Valerie Plame Wilson and/or Joseph C. Wilson. As used herein, the term "White House" includes, but is not limited to, any office within the Executive Office of the President. Further, the request for communications concerning Valerie Plame Wilson includes, but is not limited to, communications concerning Valerie Plame, Valerie Wilson, and/or Valerie Plame Wilson.

Please search 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. Our request includes any telephone messages, voice mail messages, daily agenda and calendars, information about scheduled meetings and/or discussions, whether in-person or over the telephone, agendas for those meetings and/or discussions, participants included in those meetings and/or discussions, minutes of any such meetings and/or discussions, the topics discussed at those meetings and/or discussions, e-mail regarding meetings and/or discussions, e-mail or facsimiles sent as a result of those meetings and/or discussions, and transcripts or notes of any such meetings and/or discussions.

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), 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 (9<sup>th</sup> Cir. 1987). Specifically, these records are likely to contribute to the public’s understanding of the extent to which the CIA was influenced in its treatment of Valerie Plame Wilson by the White House following public disclosure of Mr. Wilson’s findings during a February 2002 trip he took to Niger.

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](http://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.

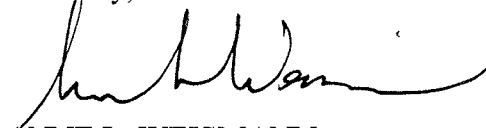
Under these circumstances, CREW fully satisfied the criteria for a fee waiver.

### **Conclusion**

Please respond to this request in writing within an expedited time-frame. If all of the requested documents are not available within that time period, CREW requests that you provide all requested documents or portions of documents which are available within that time period.

If you have any questions about this request or foresee any problems in releasing fully the requested records within the twenty-day period, 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

# CREW | citizens for responsibility and ethics in washington

1400 Eye Street N.W., Suite 450  
Washington, D.C. 20005  
Phone: 202-408-5565  
Fax: 202-588-5020

## FACSIMILE TRANSMITTAL SHEET

TO: Information & Privacy  
Coordinator FROM: Anne Weismann

COMPANY: CREW DATE: 2-15-07

RECIPIENT'S FAX NUMBER: 703-613-3007 PAGE 1 OF 4

RECIPIENT'S PHONE NUMBER: RE: FOIA Request

NOTES/COMMENTS:

*Pages transmitted are privileged and confidential.*

TRANSMISSION VERIFICATION REPORT

TIME : 02/15/2007 17:20  
NAME : CREW  
FAX : 2025885020  
TEL : 2024085565  
SER.# : 000B6J828633

|              |                 |
|--------------|-----------------|
| DATE, TIME   | 02/15 17:19     |
| FAX NO./NAME | 7036133007      |
| DURATION     | 00:00:58        |
| PAGE(S)      | 04              |
| RESULT       | OK              |
| MODE         | STANDARD<br>ECM |

## **EXHIBIT B**

Central Intelligence Agency



Washington, D.C. 20505

FEB 27 2007

Anne L. Weismann, Esq.  
Chief Counsel  
CREW  
1400 Eye Street, N.W., Suite 450  
Washington, D.C. 20005

Dear Ms. Weismann:

The office of the Information and Privacy Coordinator has received your 15 February 2007 Freedom of Information Act request. Our officers will review it, and will advise you should they encounter any problems or if they cannot begin the search without additional information.

You have requested expedited processing. We handle all requests in the order we receive them: that is, "first-in, first-out." We make exceptions to this rule only when a requester establishes a compelling need under the standards in our regulations. A "compelling need" exists: 1) when the matter involves an imminent threat to the life or physical safety of an individual, or 2) when a person primarily engaged in disseminating information makes the request and the information is relevant to a subject of public urgency concerning an actual or alleged Federal government activity. Your request does not demonstrate a "compelling need" under these criteria and, therefore, we deny your request for expedited processing.

We have assigned your request Reference No. F-2007-00839. Please use this number when corresponding with us about this request so that we can identify it easily.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott Koch".

Scott Koch

Information and Privacy Coordinator