



October 4, 2017

VIA ELECTRONIC MAIL

Eric F. Stein
Director, Office of Information Programs and Services
Building SA-2
515 22nd Street, NW
Washington, DC 20522-8100
(202) 261-8484
FOIArequest@state.gov

Re: Freedom of Information Act Records Request

Dear Mr. Stein:

Pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552 *et seq.*, and Department of State FOIA regulations at 22 C.F.R. Part 171, Democracy Forward Foundation makes the following request for records.

Background

On October 4, 2017, Secretary of State Rex Tillerson gave an unscheduled press conference [herein “the Press Conference”] to address early morning press reports that he openly disparaged President Trump and had been on the verge of resigning this past summer amid clashes with the White House.¹ The press conference was held despite an already scheduled press briefing led by Department Spokesperson Heather Nauert.²

During the press conference, Secretary Tillerson stated he did not speak with the President ahead of his unscheduled appearance. Secretary Tillerson also refused to refute reports that he “openly disparaged the president, referring to him as a ‘moron,’ after a July 20 meeting at the Pentagon with members of Trump’s national security team and Cabinet officials”:³

“REPORTER: Can you address the main headline of this story that you called the president a moron, and if not, where do you think these reports —

“TILLERSON: I’m not going to deal with petty stuff like that. This is what I don’t understand about Washington. Again, I’m not from this place. But the places I come

¹ goo.gl/qm7UV3

² <https://www.state.gov/r/pa/prs/dpb/>

³ goo.gl/vxK6zL

from, we don't deal with that kind of petty nonsense. And it is intended to do nothing but divide people. And I'm just not going to be part of this effort to divide this administration.”⁴

Records Requested

In an effort to better understand, and explain to the public, the decision making process that led to the aforementioned Press Conference, Democracy Forward Foundation requests that the Department of State produce the following within twenty (20) business days:

- (1) Any and all records that refer or relate to the development of the statement issued by Secretary of State Rex Tillerson on October 4, 2017. This includes, but is not limited to, all drafts of the statement and communications regarding its content.

The time period for this portion of the request is October 1 to the date the search is conducted.

- (2) Any and all records that: (i) refer or relate to Secretary Tillerson, and (ii) were sent from or to any White House employee, including but not limited to: John Kelly, Kirstjen Nielsen, Hope Hicks, Mercedes Schlapp, Sarah Huckabee Sanders, Jared Kushner, Ivanka Trump, Avraham Berkowitz, Stephen Miller, Donald McGahn, Kellyanne Conway, or Madeleine Westerhout.

The time period for this portion of the request is October 1 to the date the search is conducted.

- (3) Any and all records, including correspondence, regarding the article published by NBC News on October 4, 2017, titled “Tillerson’s Fury at Trump Required an Intervention From Pence”.⁵ This includes internal correspondence by State Department employees and correspondence between State Department Employees and NBC reporters prior to the publication of the article. For State Department employees, any search should include, but not be limited to, the inboxes of RC Hammond and Heather Nauert.

The time period for this portion of the request is October 1 to the date the search is conducted.

- (4) Any and all records that: (i) refer or relate to Secretary Tillerson, and (ii) contain any of the following words: “moron”, “statement”, “press conference”, “NBC”, “resign”, “resignation”, “Pence”, “VP”, “Kelly”, “Mattis”, or “Haley”.

The time period for this portion of the request is October 1 to the date the search is conducted.

- (5) Any and all nonclassified records that refer or relate to Secretary Tillerson’s participation in a July 20, 2017 meeting at the Pentagon with White House and Cabinet officials, including but not limited to: calendar invitations for the meeting, meeting minutes, meeting notes, and emails sent or received after the meeting.

⁴ <https://goo.gl/tjtRjx>

⁵ *Id* at 3

The time period for this portion of the request is July 10 to the date the search is conducted.

Please limit the search to the following Department of State offices: Office of the Secretary, Office of the Deputy Secretary, Office of Legislative Affairs, Office of the Under Secretary for Public Diplomacy and Public Affairs, and Office of Policy Planning.

For speed of processing, a rolling release of records is requested.

Please search for records regardless of format, including paper records, electronic records, audiotapes, videotapes, photographs, data, and graphical materials. This request includes, without limitation, all correspondence, letters, emails, text messages, calendar entries, facsimiles, telephone messages, voice mail messages, and transcripts, notes, minutes, or audio or video recordings of any meetings, telephone conversations, or discussions.

FOIA requires agencies to disclose information, with only limited exceptions for information that would harm an interest protected by a specific exemption or where disclosure is prohibited by law. 5 U.S.C. § 552(a)(8)(A). In the event that any of the requested documents cannot be disclosed in their entirety, we request that you release any material that can be reasonably segregated. *See* 5 U.S.C. § 552(b). Should any documents or portions of documents be withheld, we further request that you state with specificity the description of the document to be withheld and the legal and factual grounds for withholding any documents or portions thereof in an index as required by *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973). Should any document include both disclosable and non-disclosable material that cannot reasonably be segregated, we request that you describe what proportion of the information in a document is non-disclosable and how that information is dispersed throughout the document. *Mead Data Cent., Inc. v. U.S. Dep't of Air Force*, 566 F.2d 242, 261 (D.C. Cir. 1977).

If requested records are located in, or originated in, another agency, department, office, installation or bureau, please refer this request or any relevant portion of this request to the appropriate entity.

To the extent that the records are readily reproducible in an electronic format, we would prefer to receive the records in that format. However, if certain records are not available in that format, we are willing to accept the best available copy of each such record.

Please respond to this request in writing within 20 working days as required under 5 U.S.C. § 552(a)(6)(A)(i). If all of the requested documents are not available within that time period, we request that you provide us with all requested documents or portions of documents that are available within that time period. If all relevant records are not produced within that time period, we are entitled to a waiver of fees for searching and duplicating records under 5 U.S.C. § 552(a)(4)(A)(viii)(I).

Democracy Forward Foundation is a nonprofit organization organized under Internal Revenue Code § 501(c)(3) and dedicated to educating the public about the operation of the federal

government. The records we obtain from this request will be used to support those public education efforts, and we intend to disseminate publicly an analysis of those records. As a nonprofit organization, we do not have a commercial interest in the records. We therefore request a waiver of fees for searching and duplicating records in response to this request under the exception at 5 U.S.C. § 552(a)(4)(A)(iii), which requires waiver of fees if the disclosure 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.” If our request for a waiver is denied, we are willing to pay all reasonable fees incurred for searching and duplicating records in responding to this request, up to \$250. If the costs of responding to this request should exceed that amount, please contact us before incurring costs exceeding that amount.

If you need clarification as to the scope of the request, have any questions, or foresee any obstacles to releasing fully the requested records within the 20 day period, please contact Skye Perryman as soon as possible at foia@democracyforward.org or 202-448-9090.

We appreciate your assistance and look forward to your prompt response.

Sincerely,

/s/ Skye Perryman

Skye Perryman
Democracy Forward Foundation