

December 23, 2021

By electronic mail and web portal

FOIA/PA Mail Referral Unit
Justice Management Division
Department of Justice
950 Pennsylvania Ave., NW
Washington, DC 20530-0001
mrufoia.requests@usdoj.gov

Federal Bureau of Investigation
Attn: Initial Processing Operations Unit
Record/Information Dissemination Section
200 Constitution Drive
Winchester, VA 22602

**Re: FOIA Request for all DOJ and FBI communications referring to
Project Veritas or James O’Keefe**

Dear FOIA Officers:

Pursuant to the Freedom of Information Act (“FOIA”), Project Veritas requests that the U.S. Department of Justice (“DOJ”), including the Federal Bureau of Investigation (“FBI”), produce the following records:

1. All memoranda, e-mails or other communications or records created or exchanged since August 1, 2020, that refer to or otherwise address the FBI and DOJ investigation into Project Veritas and the alleged theft of Ashley Biden’s diary, or other personal property or personal effects. A communication should be considered responsive to this request if it refers to the diary, or other personal property or personal effects, allegedly belonging to Ashley Biden and, at a minimum, any of the following: the FBI’s search of James O’Keefe’s home; James O’Keefe; Project Veritas; efforts to monitor Project Veritas; whether Project Veritas is a news organization; and whether Project Veritas reporters are journalists.
2. All memoranda, e-mails, or other communications or records created or exchanged since January 1, 2020, discussing (i) James O’Keefe; or (ii) Project Veritas or Project Veritas staff, representatives, or agents, including, but not limited to, Jered Ede, Paul Calli, and Ben Barr.

3. All communications discussing or referring to James O’Keefe, Project Veritas, or its staff, representatives, or agents exchanged between DOJ or FBI personnel and any representative of a news organization including, but not limited to, the New York Times and New York Times reporters Michael Grynbaum, Marc Tracy, Mark Mazzetti, Michael Schmidt, William Rashbaum, and Adam Goldman.

This request is directed to the Office of the Attorney General, the Office of the Deputy Attorney General, the Office of the Associate Attorney General, the Executive Office for United States Attorneys, the Civil Division, the Criminal Division, the FBI, and any other DOJ component determined reasonably likely to have responsive records under 28 C.F.R. § 16.3(a)(2).

In addition to records and communications exchanged between DOJ personnel, between DOJ personnel and representatives of other government agencies, or between DOJ personnel and members of the public, we request all responsive records and communications exchanged between DOJ personnel and any of the following: White House personnel, Executive Office of the President personnel, Secret Service personnel, Joe Biden, Ashley Biden, any other member or representative of the Biden family, including Roberta Kaplan and any other attorneys or agents of the Biden family, and Biden presidential campaign personnel.

Definitions. For purposes of this request, the term “record” shall mean: (1) typed material of any kind, including but not limited to all correspondence, memoranda, notes, messages, letters, facsimiles, papers, forms, telephone messages, schedules, calendars, minutes, books, reports, lists, ledgers, invoices, receipts, computer printouts, contracts, agreements, and transcripts; (2) any electronically stored material of any kind, including all emails and also including material stored on any personal electronic devices; (3) any audio or visual recordings of any kind; and (4) any materials using other means of preserving information.

Fee waiver. Project Veritas requests a waiver of both search fees and duplication fees under 5 U.S.C. §§ 552(a)(4)(A)(i), 552(a)(4)(A)(ii)(II), 552(a)(4)(A)(iii). First, Project Veritas is entitled to the waiver of such fees because it is a member of the news media as that term is defined in FOIA and construed by the courts, disclosing information that is in the public interest and educating the public about government operations. *See Nat’l Sec. Archive v. Dep’t of Def.*, 880 F.2d 1381, 1387 (D.C. Cir. 1989). As the D.C. Circuit has said: “[I]f an entity ... issues substantive press releases concerning the documents it uncovers, or even if it simply provides editorial comments on those documents in interviews with newspapers, such a gloss on the underlying materials could satisfy this element of the definition.” *Cause of Action*, 799 F.3d 1108, 1122 (D.C. Cir. 2015). Project Veritas does just that—it obtains information on the activities of both public and private entities, uses journalistic and editorial skill to translate that information into news reports, and

disseminates that information to the public to educate the citizenry of the United States. Project Veritas intends to do so with the information received through this request.¹

Second, we request a full fee waiver for this request as “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). The subject of the requested records concerns government operations. The DOJ and FBI’s seizure of reporter’s notes, donor lists, and source information poses a significant threat to press freedom, freedom of association, and other First Amendment rights. Few matters are of such substantial public interest. *See id.* Indeed, this matter has resulted in substantial press coverage.² Accordingly, we request a full fee waiver for this request.

Format of records. We ask that you please provide each responsive record in electronic form. If a portion of the responsive records may be produced more readily than the remainder, we request that those records be produced first and that the remaining records be produced on a rolling basis. Pursuant to 5 U.S.C. § 552(a)(8)(A), if any of the responsive records are subject to a FOIA exemption or if disclosure is otherwise prohibited by law, we request that you partially disclose records where possible and take all reasonable steps necessary to segregate and release nonexempt information. Also, if you withhold any responsive record in whole or in part pursuant to any FOIA exemption, we request that you provide a *Vaughn* index explaining all such withholdings.

Follow-up communication. We welcome communication about this request if further discussion would assist in the search and release of the requested records. We ask that you respond to this request without delay given our urgent need for the responsive records. Should you have any questions, please contact me at [REDACTED]

¹ Additionally, Project Veritas is a nonprofit entity organized under Section 501(c)(3) of the Internal Revenue Code. Project Veritas’s mission is to investigate and expose corruption, dishonesty, self-dealing, waste, fraud, and other misconduct in both public and private institutions in order to achieve a more ethical and transparent society. As such, Project Veritas has a mission to educate the public on issues of misconduct, rather than commercial interests.

² *See* Adam Goldman & Michael Schmidt, *How Ashley Biden’s Diary Made Its Way to Project Veritas*, N.Y. TIMES (Dec. 16, 2021), <https://www.nytimes.com/2021/12/16/us/politics/ashley-biden-project-veritas-diary.html>; Michael S. Schmidt et al., *F.B.I. Searches James O’Keefe’s Home in Ashley Biden Diary Theft Inquiry*, N.Y. TIMES (Nov. 12, 2021), <https://www.nytimes.com/2021/11/06/us/politics/james-okeefe-project-veritas-ashley-biden.html>.

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Thank you for your attention to this matter. I look forward to receiving your response.

Sincerely,

/s/ Brian J. Field

Brian J. Field