

focused on legal issues—as well as one of the fastest growing educational channels in the world—with more than three million subscribers, fifteen million monthly views, and nearly one billion total video views. Legal Eagle is accordingly a representative of the news media within the meaning of 5 U.S.C. § 552(a)(4)(A).

4. Defendant Department of Justice (“DOJ”) is an agency within the meaning of 5 U.S.C. § 552(e) and is in possession and/or control of the records requested by Legal Eagle which are the subject of this action.

5. The Federal Bureau of Investigation (“FBI”), Office of Information and Policy (“OIP”), and Special Counsel’s Office (“SCO”) are DOJ components.

BACKGROUND

6. Former President Donald Trump lost the 2020 presidential election.

7. Between 3 November 2020 and 20 January 2021, former President Trump allegedly engaged in a criminal conspiracy to overturn the results of the election.

8. On or around 20 January 2021, former President Donald Trump caused numerous boxes, many of which contained classified documents, to be transported from the White House to the Mar-a-Lago Club in Palm Beach, Florida, where he maintained his residence.

9. Former President Trump maintained these boxes in various locations at the Mar-a-Lago Club for over a year.

10. On 30 March 2022, FBI opened a criminal investigation into the unlawful retention of classified documents at the Mar-a-Lago Club.

11. On 15 November 2022, former President Trump announced that he was running for President again.

12. On 18 November 2022, U.S. Attorney General Merrick Garland appointed Jack Smith (“Smith”) to serve as Special Counsel for both matters involving former President Trump.

13. As of this writing, Smith has been in charge of the investigations and prosecutions of former President Trump.

14. On 8 June 2023, at Smith’s request, a grand jury in the Southern District of Florida issued an indictment against former President Trump and Waltine Nauta, which became the case *United States v. Trump*, No. 23-80101 (S. D. Fla.) (hereinafter “the Documents Case”).

15. On 27 July 2023, at Smith’s request, a grand jury in the Southern District of Florida issued a superseding indictment in the Documents Case against former President Trump, Waltine Nauta, and Carlos de Oliveira.

16. On 1 August 2023, at Smith’s request, a grand jury in the District of Columbia issued an indictment against former President Trump, which became the case *United States v. Trump*, No. 23-257 (D.D.C.) (hereinafter “the Election Case”).

17. On 27 August 2024, at Smith’s request, a grand jury in the District of Columbia issued a superseding indictment in the Election Case against former President Trump.

18. On 5 November 2024, former President Trump was re-elected President.

19. After former President Trump’s re-election, various media outlets reported that Smith would be “winding down” both cases against former President Trump, issuing a report, and resigning, due to DOJ guidance that prohibits charging a sitting president with a crime.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

(OIP – CONSTRUCTIVE EXPEDITED PROCESSING DENIAL – 1670261)

20. Legal Eagle repeats and realleges the allegations contained in all paragraphs set forth above.
21. FOIA requests for SCO records must be submitted to OIP.
22. On 8 November 2024, Legal Eagle submitted to OIP via the portal at <https://www.foia.gov> a FOIA request for two categories of records “from the Office of Special Counsel Jack Smith”: (1) All records collected, maintained, and stored by the SCO since November 18, 2022, during the Office’s investigation into potential federal crimes committed by former President Donald Trump; and (2) All sent and received emails stored in the email accounts of SCO personnel as of the date of the search, not including emails not directly relevant to the investigation (such as press clippings, DOJ administrative emails not unique to the SCO, etc.). Legal Eagle clarified that “[t]he second category is not meant to limit the first category, but simply to provide more specifics regarding responsive emails.”
23. Legal Eagle further advised, “As the SCO is currently in the process of winding down the two criminal cases against former President Trump, you may wait until those cases are resolved to begin reviewing records so that you do not waste time asserting Exemption (b)(7)(A) for information while the cases are still open. You may not, however, wait until those cases are resolved to conduct the search and direct the SCO to preserve all responsive records, including emails.”
24. To ease the review burden, Legal Eagle further allowed, “You may exclude from consideration any portions of records discussing confidential legal advice about the investigation

and/or prosecution, as well as any grand jury materials. You may also exclude from consideration any portions of records which were properly classified prior to 8 November 2024. You may also exclude from consideration any records which have already been made public.”

25. Legal Eagle requested expedited processing of this request, classification as a representative of the news media, and a public interest fee waiver, citing to the extensive public interest in the investigations and prosecutions of former President Trump, especially in light of the fact that the prosecutions will not conclude due to former President Trump’s re-election for a second, non-consecutive term.

26. Specifically with respect to its request for expedited processing, Legal Eagle explained, “For over two years, the SCO has been conducting an investigation into potential crimes committed by former President Trump. This investigation has already resulted in two criminal cases being brought against former President Trump and numerous other people. The investigation, Mr. Smith, and his team have been the subject of harsh criticism by former President Trump on a near daily basis, and former President Trump has promised to fire Mr. Smith as soon as he takes office again. It is crucial that this information, which will now not be revealed in the normal course of criminal litigation, be released expeditiously to provide the public with insight into whether they can have confidence that former President Trump can satisfactorily execute the duties of his office and would set the record straight as to whether the evidence supported the investigation and prosecutions.”

27. Legal Eagle demonstrated that there was an urgent need of a requester primarily engaged in disseminating information to inform the public about an actual or alleged Federal Government activity and that the subject of the request is of widespread and exceptional media

interest and the information sought involves possible questions about the Government's integrity which affect public confidence.

28. As of this writing, OIP has not made a determination within ten days regarding Legal Eagle's request for expedited processing.

29. Legal Eagle has a legal right under FOIA to have its request processed as soon as practicable, and there is no legal basis for the denial by OIP of said right.

SECOND CAUSE OF ACTION

(FBI – CONSTRUCTIVE EXPEDITED PROCESSING DENIAL – 1652028-000)

30. Legal Eagle repeats and realleges the allegations contained in all paragraphs set forth above.

31. On 8 November 2024, Legal Eagle submitted to FBI via the FBI FOIA portal a FOIA request for "all information about former President Donald Trump in the Central Records System collected or created as part of the investigations into him for unlawfully retaining national security information and for his role in the January 6 insurrection, for which he is currently in criminal litigation in the Southern District of Florida and the District of Columbia."

32. Legal Eagle further advised, "As the Special Counsel's Office is currently in the process of winding down the two criminal cases against former President Trump, you may wait until those cases are resolved to begin reviewing records so that you do not waste time asserting Exemption (b)(7)(A) for information while the cases are still open. You may not, however, wait until those cases are resolved to conduct the search. You may also not wait to receive a response from us regarding a privacy waiver, as we will not be submitting one due to the overwhelming public interest in these records."

33. To ease the review burden, Legal Eagle further allowed, “You may exclude from consideration any portions of records discussing confidential legal advice about the investigations and/or prosecutions, as well as any grand jury materials. You may also exclude from consideration any portions of records which were properly classified prior to 8 November 2024. You may also exclude from consideration any records which have already been made public.”

34. Legal Eagle requested expedited processing of this request, classification as a representative of the news media, and a public interest fee waiver, citing to the extensive public interest in the investigation and prosecution of former President Trump.

35. Specifically with respect to its request for expedited processing, Legal Eagle explained, “For over two years, the Office of Special Counsel Jack Smith has been conducting an investigation into the matters discussed in these records. This investigation has already resulted in two criminal cases being brought against former President Trump and numerous other people. The investigation, Mr. Smith, and his team have been the subject of harsh criticism by former President Trump on a near daily basis. It is crucial that this information, which will now not be revealed in the normal course of criminal litigation, be released expeditiously to provide the public with insight into whether they can have confidence that former President Trump can satisfactorily execute the duties of his office and would set the record straight as to whether the evidence supports the investigations and prosecutions.”

36. Legal Eagle demonstrated that there was an urgent need of a requester primarily engaged in disseminating information to inform the public about an actual or alleged Federal Government activity and that the subject of the request is of widespread and exceptional media

interest and the information sought involves possible questions about the Government's integrity which affect public confidence.

37. On 18 November 2024, FBI responded to Legal Eagle's request and assigned it Request No. 1652028-000. FBI denied Legal Eagle's request for classification as a representative of the news media, deferred its decision regarding Legal Eagle's request for a public interest fee waiver, and did not address its request for expedited processing.

38. As of this writing, FBI has not made a determination within ten days regarding Legal Eagle's request for expedited processing.

39. Legal Eagle has a legal right under FOIA to have its request processed as soon as practicable, and there is no legal basis for the denial by FBI of said right.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Legal Eagle, LLC prays that this Court:

- (1) Order the Federal Bureau of Investigation and Office of Information Policy to expeditiously process its requests;
- (2) Order preliminary and permanent injunctive and/or declaratory relief as may be appropriate;
- (3) Award reasonable costs and attorneys' fees as provided in 5 U.S.C. § 552(a)(4)(E), 28 U.S.C. § 2412(d), or any other applicable law;
- (4) Expedite this action in every way pursuant to 28 U.S.C. § 1657(a); and
- (5) Grant such other relief as the Court may deem just and proper.

Date: November 22, 2024

Respectfully submitted,

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