

COMMITTEES:

AGING

BUDGET

ENVIRONMENT AND PUBLIC WORKS

HEALTH, EDUCATION, LABOR, AND PENSIONS

JUDICIARY

United States Senate

WASHINGTON, DC 20510-3905

May 1, 2017

The Honorable Samuel R. Ramer
Acting Assistant Attorney General
U.S. Department of Justice
Office of Legislative Affairs
Main Justice Building, Room 1145
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ramer:

I write to reiterate and expand upon the request in my letter of February 17, 2017, and a subsequent e-mail from my staff for information related to Department of Justice's conflict of interest determinations for new employees. That letter, as well as a copy of the e-mail, are enclosed.

My original request was intended, in summary, to obtain information about the Department's review of political appointees for conflicts of interest. Since my original request, the Department presumably has on-boarded a fuller complement of politically appointed positions and financial disclosures and ethics agreements for those appointees have been completed. I have enclosed a completed OGE Form 201, with an attachment listing all political appointees identified in media reports as having joined the Department since January 20, 2017. By submitting the form that members of the public use to obtain and review public financial disclosure reports (Form 278), I expect you to provide the underlying documentation necessary to respond to my original request. I also request that you provide ethics agreements and counseling notes for the individuals identified.

For each political appointee who did not submit a Form 278 form within 30 days of being appointed, please confirm that an extension was granted and what good cause for the extension was shown pursuant to 5 U.S.C. app. 4 § 101(g)(1); 5 C.F.R. § 2634.201(f).

During his confirmation hearing, Attorney General Sessions committed to the Chairman that the "Department will respect [the Judiciary Committee's] oversight role and the particularly critically important separation of powers between the executive and legislative branches."¹ He added:

¹ Testimony of Senator Jeff Sessions, "Senate Judiciary Committee Hearing on the Nomination of Sen. Sessions to be Attorney General," United States Senate Committee on the Judiciary, January 10, 2017 p. 17.

“[The Judiciary] Committee has oversight but it goes beyond that. This Committee and the Congress funds the various branches of the executive branch, the various departments. And you have every right before you fund our agencies and departments to get responsive answers to questions that are proper. Sometimes the department-the Congress has asked for issues that maybe there’s legitimate reasons to object to, but they should object and state why. Mr. Chairman, I will be responsive to your request, and I understand your history more than anyone in this Congress to advance the idea that the executive branch needs to be held accountable, and I salute you for it.”² (p.23)

In light of the Department’s failure to respond to my prior requests, General Sessions’ confirmation testimony is beginning to ring hollow.

It is apparent from media reports that the Department is providing responsive documents to the public pursuant to Freedom of Information Act requests, so I foresee no “legitimate reasons” for not disclosing them to me.³ If my previous requests were unclear or otherwise not possible to answer, I expect the Department will follow Attorney General Sessions’ expectation that it “object and state why.”

A failure by the Department to cooperate with reasonable requests from its Members makes the conduct of any Department business before the Committee more complicated. Accordingly, I urge you to respond to this request promptly and thoroughly.

Sincerely,

A handwritten signature in blue ink, appearing to read "Sheldon Whitehouse".

Sheldon Whitehouse
United States Senator

² Id. at 23.

³ See, e.g., Sean Reilly, “Many recusals for acting chief of DOJ environment section,” E&E News, April 25, 2017 available at https://www.eenews.net/greenwire/2017/04/25/stories/1060053554?show_login=1

United States Senate

WASHINGTON, DC 20510-3905

February 17, 2017

The Honorable Lee J. Lofthus
Assistant Attorney General for Administration
Alternate Designated Agency Ethics Official
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530-0001

Dear Mr. Lofthus:

I write to request information with respect to procedures the Department of Justice (DOJ) has put in place to ensure that all new Department employees are following federal laws and regulations governing conflicts of interest, and that appropriate safeguards have been put in place to protect the prerogatives of the Department in ongoing civil litigation and criminal matters in which it is involved. These conflicts may be especially acute and involve issues of legal ethics and professional responsibility when new employees are attorneys who have represented clients in litigation against the United States or its agencies. Specifically, I have the following questions:

- As of today, are any individuals who are not DOJ employees, including but not limited to members of the Trump transition team, receiving briefings on ongoing litigation in which DOJ is representing the government, or criminal or civil enforcement matters? If so, who are these individuals, why are they receiving briefings, and what safeguards have been put in place to ensure compliance with all federal conflict of interest laws and regulations?
- What are the names and titles of Schedule C appointees at DOJ who have been brought on since January 20, 2017?
- On what date did each of these Schedule C appointees receive required ethics trainings and/or briefings?
- What steps have been taken to determine whether any Schedule C appointees have covered relationships pursuant to 5 C.F.R. 2635.502(b)?
- What steps have been taken to ensure that Schedule C appointees are not participating personally and substantially, including through briefings, in particular matters involving specific parties with which they have a covered relationship?

- Have any waivers been granted to this recusal requirement? If so, please specify the individuals receiving the waiver, the particular matter to which the waiver applies, and the reasons for granting the waiver.
- Are there any other political appointees not otherwise listed above currently receiving briefings or participating in particular matters at DOJ? If so, who are these individuals, what is their role at DOJ, and what safeguards have been put in place to ensure compliance with all federal conflict of interest laws and regulations?
- Have any appointees who have conflicts directly or imputed to them received briefings on particular matters in which they or their firms have participated?
- When you formalize ethics advice, do you consider amicus brief participation any differently than representation of a party?

Thank you for your ongoing efforts to protect the integrity of DOJ. We would appreciate answers to these questions at your earliest convenience.

Sincerely,

A handwritten signature in black ink, appearing to read "Sheldon Whitehouse". The signature is fluid and cursive, with a long, sweeping underline that extends to the right.

Sheldon Whitehouse
United States Senator

From: [Gaeta, Joe \(Whitehouse\)](#)
To: sam.ramer@usdoj.gov
Cc: [Quint, Lara \(Judiciary-Dem\)](#); [Goodstein, Sam \(Whitehouse\)](#)
Subject: February 17, 2017 letter to Lee Lofthus
Date: Friday, March 24, 2017 2:56:16 PM
Attachments: [Lofthus letter.pdf](#)

Sam,

At your meeting yesterday with Senator Whitehouse, you asked Lara Quint to forward to your attention the letter we previously sent to AAG Lofthus. It is attached here. Please let us know when we should expect a response.

Joe Gaeta

Senior Advisor and Director of Oversight
Senator Sheldon Whitehouse (D-RI)
202-224-9214

Request to Inspect or Receive Copies of Executive Branch Personnel Public Financial Disclosure Reports or Other Covered Records.

OGE Form 201 (January 2017)

I. Application

1. Applicant's name and address (please print):

Joe Gaeta

Agency Use Only

Received date: _____

Filled date: _____

1a. Office telephone number: (202) 224-2921 ext. _____

2. Occupation:

Senior Advisor

3. If application is for or on behalf of any other person or organization, give the other's name:
Senator Sheldon Whitehouse

3a. Address of the other person or organization:
530 Hart Senate Office Building
Washington, D.C. 20510

4. Type of applicant:

news media private citizen public interest group law firm other private organization government

5. Copy of the most recent (or other, specify which and whether to include OGE Form 278-Ts) Public Financial Disclosure Report Form OGE Form 278/SF 278 requested for the following named individual(s):

a. See attachment

d. _____

b. _____

e. _____

c. _____

f. _____

Certain other types of records ("covered records") can also be requested using this form (see Part III below); if you are requesting another covered record, check this box and specify which type of record(s): _____

6. Indicate how you wish to receive this request:

Pick up at OGE By mail (at the address listed above)

I am aware that this request for access to a public financial disclosure report is an official Government form (OGE Form 201). In completing this OGE Form 201, any intentionally false or misleading statement, certification, or response provided in this form is a violation of law punishable by a fine or imprisonment, or both, under 18 U.S.C. § 1001. Pursuant to section 105(c) of the Ethics in Government Act of 1978 and 5 C.F.R. § 2634.603(f) of the implementing OGE regulation, it is unlawful for any person to obtain or use a report:

- (1) for any unlawful purpose;
- (2) for any commercial purpose, other than by news and communications media for dissemination to the general public;
- (3) for determining or establishing the credit rating of any individual; or
- (4) for use, directly or indirectly, in the solicitation of money for any political, charitable, or other purpose.

The U.S. Attorney General may bring a civil action against any person who obtains or uses a report for any such prohibited purpose as set forth above. The court may assess against such a person a penalty in any amount not to exceed \$19,246. Such remedy shall be in addition to any other remedy available under statutory or common law.

7. Applicant's signature: 

Date: 4/21/17

II. Notice of Action

Copies of the report(s) or other covered record(s) you requested are enclosed.

Picked up by (signature): _____ Date: _____

Your request does not comply with the requirements of the statute. Please complete Part I of this form and return so we may comply with your request.

Fees. If applicable, amount: _____ (when fees are required, make out a check payable to the U.S. Treasury and send it to the executive branch agency processing this request form).

(form continued on reverse side)

A. Privacy Act Statement

Sections 105 and 402(b)(1) of the Ethics in Government Act, as amended (5 U.S.C. app. 101) and 5 C.F.R. § 2634.603 authorize the solicitation of the information requested in this form. The primary use of the information on this form is to permit officials of the recipient agency to consider and process requests for inspection or receipt of copies of the OGE Form 278e Executive Branch Personnel Public Financial Disclosure Report and OGE Form 278-T Periodic Transaction Report, or other covered records to which you seek access. Furnishing the requested information is voluntary. However, failure to furnish this information will result in the recipient agency's inability to allow access to, or to provide a copy/copies of, the financial disclosure report(s) or other record(s) requested. Information on the form itself may be publicly disclosed pursuant to a proper request under section 105(b) of the Ethics in Government Act or as otherwise authorized by law.

Additional disclosures of the information on this form may be made pursuant to the routine uses set forth in the OGE/GOVT-1 Privacy Act system of records:

- (1) to any requesting person, in accordance with sections 105 and 402(b)(1) of the Ethics in Government Act of 1978, 5 U.S.C. app.101 as amended;
- (2) to any requesting person, subject to the limitation contained in section 208(d)(1) of title 18, any determination granting an exemption pursuant to sections 208(b)(1) and 208(b)(3) of title 18;
- (3) to a Federal, State, or local law enforcement agency if the disclosing agency becomes aware of violations or potential violations of law or regulation;
- (4) to another Federal agency, court or party in a court or Federal administrative proceeding when the Government is a party or in order to comply with a judge-issued subpoena;
- (5) to a source when necessary to obtain information relevant to a conflict of interest investigation or determination;
- (6) to the National Archives and Records Administration or the General Services Administration in records management inspections;
- (7) to the Office of Management and Budget during legislative coordination on private relief legislation;
- (8) to the Department of Justice or in certain legal proceedings when the disclosing agency, an employee of the disclosing agency, or the United States is a party to litigation or has an interest in the litigation and the use of such records is deemed relevant and necessary to the litigation;
- (9) to reviewing officials in a new office, department or agency when an employee transfers or is detailed from one covered position to another;
- (10) to a Member of Congress or a congressional office in response to an inquiry made on behalf of an individual who is the subject of the record;
- (11) to contractors and other non-Government employees working on a contract, service or assignment for the Federal Government when necessary to accomplish a function related to an OGE Governmentwide system of records; and
- (12) on the OGE Website and to any person, department or agency, any written ethics agreements filed with OGE by an individual nominated by the President to a position requiring Senate confirmation.

See also the Privacy Act system of records OGE/GOVT-1 Executive Branch Personnel Public Financial Disclosure Reports and Other Name-Retrieved Ethics Program Records.

B. Public Burden Information

Public burden reporting for this collection of information is estimated to take approximately ten minutes per response, including time for reviewing instructions, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Program Counsel, U.S. Office of Government Ethics, Suite 500, 1201 New York Avenue, NW., Washington DC 20005-3917. **Do not** file this form with this official; rather, file it with the appropriate office of the executive branch department or agency from which you are seeking access to a financial disclosure report or other covered records.

Pursuant to the Paperwork Reduction Act, as amended, an agency may not conduct or sponsor, and no person is required to respond to, a collection of information unless it displays a currently valid OMB control number (that number, 3209-0002, is displayed here and in the lower right-hand corner of the front page of this OGE Form 201).

III. Other Covered Records

In addition to requests for access to public OGE Form 278/SF 278 and OGE Form 278-T reports, this form can also be used to request access to certain other agency records which are covered under the access procedures of section 105 of the Ethics in Government Act and the implementing OGE regulations ("covered records"). Such other covered records are: (1) certificates of divestiture; (2) Ethics in Government Act qualified blind trust and qualified diversified trust instruments (other than those provisions which relate to the testamentary disposition of the trust assets), the list of assets transferred to such trusts (and of assets sold in the case of a qualified blind trust), as well as, in the case of trust dissolution, the report thereon and the list of trust assets at that time, and the certificates of independence and compliance with respect to qualified trusts; (3) 18 U.S.C. § 208(b)(1) & (b)(3) waivers granted by the recipient agency (after deletion of any material withholdable pursuant to the Freedom of Information Act, 5 U.S.C. § 552 (see 18 U.S.C. § 208(d)(1))); (4) other OGE Form 201 requests for access; (5) cover letters for approved gifts reporting waiver requests; and (6) cover letters for approved public reporting waiver requests for certain less than 130-day special Government employees. If you seek access to any such additional record(s), check the second box in Part I.5 on the front page and specify the record(s) sought.

Question 5

Named Individuals:

Gary Barnett
Jonathan Berry
Noel Francisco
Curtis Gannon
Lauren Goldschmidt
John Gore
Mary Blanche Hankey
Trevor McFadden
Chad Mizelle
Michael Murray
Ryan Newman
Jesse Panuccio
Rachael Parker
Chad Readler
David Rybicki
Matthew Sheehan
Scott Stewart
Brett Talley
Rachael Tucker
Tom Wheeler
Jeff Wood