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April 12, 2023

Federal Election Commission
1050 First Street, N.E.
Washington, D.C. 20463
Submitted electronically

RE: Public Citizen Comment on Agenda Document No. 23-06-A (“Press Office Management of Complaints”)

Dear Commissioners:

Public Citizen submits this comment in opposition to the memorandum from Commissioner Allen Dickerson proposing that the Commission’s Press Office be prohibited from confirming or denying receipt of complaints.

The long-standing rules and procedures for all divisions of the Federal Election Commission (FEC), including the Press Office, in handling complaints are well-established and clear: No division of the FEC shall make public “notification or investigation” of complaints without the express written consent of the parties involved or until the case is resolved. Commission regulations as well as the FEC’s “Guidebook for Complaints” define notification as sending a copy of the complaint to each respondent, a letter describing the Commission’s compliance procedures and a designation of counsel form. 11 CFR 111.5. The “investigation” process involves all records and statements compiled to make a final determination of the merit of the complaint.

All divisions of the FEC have followed these confidentiality procedures for notifications and investigation strictly for the entire history of the agency.

“Notifications” do not include confirming or denying receipt of a complaint in response to press queries. Such over-reach will likely place the Commission in an awkward position. Routinely, complainants and respondents will publicly discuss the merits of a complaint immediately upon filing. The FEC has recognized the right of complainants and respondents to do so. *See* AO 1994-32 and AO 1995-1. If the FEC is forced into silence on even confirming or denying the receipt of such complaints, that silence will likely cast a pall over the credibility of public discussions and raise suspicion whether the Commission is even doing its job.

This extreme forced silence, beyond preserving the confidentiality of information and records obtained by the Commission in the course of an investigation, will likely harm all parties involved, not the least of which the credibility of the Commission.

Sincerely,

/s/ Craig Holman

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