



April 10, 2018

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Submitted via email

Re: Request Under Freedom of Information Act (Expedited Processing & Fee Waiver/Limitation Requested)

To Whom It May Concern:

The American Civil Liberties Union and the American Civil Liberties Union Foundation (together, the “ACLU”)¹ submit this Freedom of Information Act (“FOIA”) request (the “Request”) for records pertaining to the Department of Homeland Security’s April 3, 2018 request for “Media Monitoring Services,” including the creation of a database to monitor the media and journalists.

I. Background

On April 3, 2018, the Department of Homeland Security issued a request for bids from contractors to build a searchable database of online news media and individual journalists. Through the database, DHS’s National Protection and Programs Directorate (NPPD) and Office of the Under Secretary (OUS) seek to be able to track more than 290,000 global news sources in more than 100 languages; “social media conversations;” and “media influencer[s],” including

¹ The American Civil Liberties Union Foundation is a 26 U.S.C. § 501(c)(3) organization that provides legal representation free of charge to individuals and organizations in civil rights and civil liberties cases, educates the public about civil rights and civil liberties issues across the country, directly lobbies legislators, and mobilizes the American Civil Liberties Union’s members to lobby their legislators. The American Civil Liberties Union is a separate non-profit, 26 U.S.C. § 501(c)(4) membership organization that educates the public about the civil liberties implications of pending and proposed state and federal legislation, provides analysis of pending and proposed legislation, directly lobbies legislators, and mobilizes its members to lobby their legislators.

“journalists, editors, correspondents, social media influencers, [and] bloggers.”² For each news source, DHS requests that the database include analysis of the media’s “sentiment” and “type of influence;” for each “influencer,” DHS seeks “contact details”—which can be exported into a list—“and any other information that could be relevant, including publications th[e] influencer writes for, and an overview of [the influencer’s] previous coverage.”³

DHS’s stated objective is to enable “NPPD/OUS to monitor traditional news sources as well as social media [and] identify any and all media coverage related to [DHS] or a particular event” in order to “better reach federal, state, local, tribal, and private partners.”⁴ The Statement of Work does not define the scope of “particular event[s]” regarding which media might be monitored, who the agency’s “partners” of interest are, or what “reaching” them would entail.

In light of this minimal information, members of the public have been questioning the database’s purpose and scope since it was publicly announced. Some have expressed concerns that it is part of the government’s “increasing . . . encroachment on the freedom of the press,” and that those in the database may soon face difficulties traveling abroad.⁵ Others have hypothesized that the database is a reaction to “heightened concern about accuracy in the media and the potential for foreigners to influence U.S. elections and policy through ‘fake news.’”⁶

Responding to the media’s concerns about DHS’s plan to build a media monitoring database, an agency spokesman stated that the database reflects “nothing more than the standard practice of monitoring current events in the media.” He went on to state, “[a]ny suggestion otherwise is fit for tinfoil hat

² *Statement of Work for Media Monitoring Services* at 1-2, DEP’T OF HOMELAND SEC. (Apr. 3, 2018), available at <https://www.fbo.gov/index.php?s=opportunity&mode=form&id=22aa793f75ce05efd160cfa36d7a8acc&tab=core&tabmode=list&=>.

³ *Id.*

⁴ *Id.* at 1.

⁵ Michelle Fabio, *Department Of Homeland Security Compiling Database Of Journalists And ‘Media Influencers,’* FORBES (Apr. 6, 2018), <https://www.forbes.com/sites/michellefabio/2018/04/06/department-of-homeland-security-compiling-database-of-journalists-and-media-influencers/#3006986e6121>.

⁶ Cary O’Reilly, *Homeland Security to Compile Database of Journalists, Bloggers,* BLOOMBERG LEGAL (Apr. 5, 2018), <https://biglawbusiness.com/homeland-security-to-compile-database-of-journalists-bloggers/#>; see also Carla Herreria, *Homeland Security To Compile A Database Of Journalists, Bloggers And Influencers,* HUFFINGTON POST (Apr. 6, 2019), https://www.huffingtonpost.com/entry/homeland-security-searchable-database_us_5ac7f41de4b07a3485e4bb1d (quoting tweets expressing similar concerns).

wearing, black helicopter conspiracy theorists.”⁷ Following this statement, news reports continued to question “why [and] how the contracted job would play out.”⁸

Little is publicly known about the intended purpose and functioning of this new database. To provide the public with information about DHS’s monitoring of news, social media conversations, and journalists, the ACLU submits this FOIA Request.

II. Requested Records

The ACLU seeks the release of records (including e-mails, voicemail messages, reports, memoranda, guidance documents, instructions, training documents, formal and informal presentations, directives, contracts or agreements, memoranda of understanding, minutes or notes of meetings and phone calls, and written or electronic communications) concerning DHS’s April 3, 2018 Statement of Work for Media Monitoring Services.⁹ This includes but is not limited to all records concerning why the system is being put in place and what it will be used for, as well as all communications to and from any private business and/or its employees concerning the Media Monitoring Services.

With respect to the form of production, *see* 5 U.S.C. § 552(a)(3)(B), the ACLU requests that responsive electronic records be provided electronically in their native file format, if possible. Alternatively, the ACLU requests that the records be provided electronically in a text-searchable, static-image format (PDF), in the best image quality in the agency’s possession, and that the records be provided in separate, Bates-stamped files.

III. Application for Expedited Processing

The ACLU requests expedited processing pursuant to 5 U.S.C. § 552(a)(6)(E).¹⁰ There is a “compelling need” for these records, as defined in the statute, because the information requested is “urgen[tly]” needed by an organization primarily engaged in disseminating information “to inform the

⁷ Tweet available at https://twitter.com/SpoxDHS/status/982372727309963264?ref_src=twsrc%5Etfw&ref_url=http%3A%2F%2Fthehill.com%2Fhomenews%2Fadministration%2F382039-dhs-spokesman-dismisses-critics-of-agency-news-database-as-conspiracy.

⁸ *See, e.g.,* Sam Machkovech, *DHS defends media-monitoring database, calls critics ‘conspiracy theorists,’* ARSTECHNICA (Apr. 6, 2018), <https://arstechnica.com/tech-policy/2018/04/dhs-defends-media-monitoring-database-calls-critics-conspiracy-theorists/>.

⁹ *Statement of Work for Media Monitoring Services* at 1-2, DEP’T OF HOMELAND SEC. (Apr. 3, 2018), available at <https://www.fbo.gov/index.php?s=opportunity&mode=form&id=22aa793f75ce05efd160cfa36d7a8acc&tab=core&tabmode=list&=>.

¹⁰ *See also* 6 C.F.R. § 5.5(e).

public concerning actual or alleged Federal Government activity.” 5 U.S.C. § 552(a)(6)(E)(v)(II).

A. *The ACLU is an organization primarily engaged in disseminating information in order to inform the public about actual or alleged government activity.*

The ACLU is “primarily engaged in disseminating information” within the meaning of the statute. 5 U.S.C. § 552(a)(6)(E)(v)(II).¹¹ Obtaining information about government activity, analyzing that information, and widely publishing and disseminating it to the press and public are critical and substantial components of the ACLU’s work and are among its primary activities. *See ACLU v. DOJ*, 321 F. Supp. 2d 24, 29 n.5 (D.D.C. 2004) (finding non-profit public interest group that “gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw material into a distinct work, and distributes that work to an audience” to be “primarily engaged in disseminating information”).¹²

The ACLU regularly publishes *STAND*, a print magazine that reports on and analyzes civil liberties-related current events. The magazine is disseminated to over 980,000 people. The ACLU also publishes regular updates and alerts via email to more than 3.1 million subscribers (both ACLU members and non-members). These updates are additionally broadcast to more than 3.8 million social media followers. The magazine as well as the email and social-media alerts often include descriptions and analysis of information obtained through FOIA requests.

The ACLU also regularly issues press releases to call attention to documents obtained through FOIA requests, as well as other breaking news,¹³

¹¹ *See also* 6 C.F.R. § 5.5(e)(1)(ii).

¹² Courts have found that the ACLU and other organizations with similar missions that use similar approaches to distribute information are “primarily engaged in disseminating information.” *See, e.g., Leadership Conference on Civil Rights v. Gonzales*, 404 F. Supp. 2d 246, 260 (D.D.C. 2005); *ACLU*, 321 F. Supp. 2d at 29 n.5; *Elec. Privacy Info. Ctr. v. DOD*, 241 F. Supp. 2d 5, 11 (D.D.C. 2003).

¹³ *See, e.g.,* Press Release, American Civil Liberties Union, *U.S. Releases Drone Strike ‘Playbook’ in Response to ACLU Lawsuit* (Aug. 6, 2016), <https://www.aclu.org/news/us-releases-drone-strike-playbook-response-aclu-lawsuit>; Press Release, American Civil Liberties Union, *Secret Documents Describe Graphic Abuse and Admit Mistakes* (June 14, 2016), <https://www.aclu.org/news/cia-releases-dozens-torture-documents-response-aclu-lawsuit>; Press Release, American Civil Liberties Union, *U.S. Releases Targeted Killing Memo in Response to Long-Running ACLU Lawsuit* (June 23, 2014), <https://www.aclu.org/national-security/us-releases-targeted-killing-memo-response-long-running-aclu-lawsuit>; Press Release, American Civil Liberties Union, *Justice Department White Paper Details Rationale for Targeted Killing of Americans* (Feb. 4, 2013), <https://www.aclu.org/national-security/justice-department-white-paper-details-rationale-targeted-killing-americans>; Press Release, American Civil Liberties Union, *Documents Show FBI Monitored Bay Area Occupy Movement* (Sept. 14, 2012),

and ACLU attorneys are interviewed frequently for news stories about documents released through ACLU FOIA requests.¹⁴

Similarly, the ACLU publishes reports about government conduct and civil liberties issues based on its analysis of information derived from various sources, including information obtained from the government through FOIA requests. This material is broadly circulated to the public and widely available to everyone for no cost or, sometimes, for a small fee. ACLU national projects regularly publish and disseminate reports that include a description and analysis of government documents obtained through FOIA requests.¹⁵ The ACLU also regularly publishes books, “know your rights” materials, fact sheets, and educational brochures and pamphlets designed to educate the public about civil liberties issues and government policies that implicate civil rights and liberties.

The ACLU publishes a widely read blog where original editorial content reporting on and analyzing civil rights and civil liberties news is posted daily.¹⁶

<https://www.aclu.org/news/documents-show-fbi-monitored-bay-area-occupy-movement-insidebayareacom>.

¹⁴ See, e.g., Cora Currier, *TSA’s Own Files Show Doubtful Science Behind Its Behavioral Screen Program*, Intercept, Feb. 8, 2017, <https://theintercept.com/2017/02/08/tsas-own-files-show-doubtful-science-behind-its-behavior-screening-program/> (quoting ACLU attorney Hugh Handeyside); Karen DeYoung, *Newly Declassified Document Sheds Light on How President Approves Drone Strikes*, Wash. Post, Aug. 6, 2016, <http://wapo.st/2jy62cW> (quoting former ACLU deputy legal director Jameel Jaffer); Catherine Thorbecke, *What Newly Released CIA Documents Reveal About ‘Torture’ in Its Former Detention Program*, ABC, June 15, 2016, <http://abcn.ws/2jy40d3> (quoting ACLU staff attorney Dror Ladin); Nicky Woolf, *US Marshals Spent \$10M on Equipment for Warrantless Stingray Device*, Guardian, Mar. 17, 2016, <https://www.theguardian.com/world/2016/mar/17/us-marshals-stingray-surveillance-airborne> (quoting ACLU attorney Nate Wessler); David Welna, *Government Suspected of Wanting CIA Torture Report to Remain Secret*, NPR, Dec. 9, 2015, <http://n.pr/2jy2p71> (quoting ACLU project director Hina Shamsi).

¹⁵ See, e.g., Hugh Handeyside, *New Documents Show This TSA Program Blamed for Profiling Is Unscientific and Unreliable — But Still It Continues* (Feb. 8, 2017, 11:45 AM), <https://www.aclu.org/blog/speak-freely/new-documents-show-tsa-program-blamed-profiling-unscientific-and-unreliable-still>; Carl Takei, *ACLU-Obtained Emails Prove that the Federal Bureau of Prisons Covered Up Its Visit to the CIA’s Torture Site* (Nov. 22, 2016, 3:15 PM), <https://www.aclu.org/blog/speak-freely/aclu-obtained-emails-prove-federal-bureau-prisons-covered-its-visit-cias-torture>; Brett Max Kaufman, *Details Abound in Drone ‘Playbook’ — Except for the Ones That Really Matter Most* (Aug. 8, 2016, 5:30 PM), <https://www.aclu.org/blog/speak-freely/details-abound-drone-playbook-except-ones-really-matter-most>; Nathan Freed Wessler, *ACLU-Obtained Documents Reveal Breadth of Secretive Stingray Use in Florida* (Feb. 22, 2015, 5:30 PM), <https://www.aclu.org/blog/free-future/aclu-obtained-documents-reveal-breadth-secretive-stingray-use-florida>; Ashley Gorski, *New NSA Documents Shine More Light into Black Box of Executive Order 12333* (Oct. 30, 2014, 3:29 PM), <https://www.aclu.org/blog/new-nsa-documents-shine-more-light-black-box-executive-order-12333>; ACLU, *ACLU Eye on the FBI: Documents Reveal Lack of Privacy Safeguards and Guidance in Government’s “Suspicious Activity Report” Systems* (Oct. 29, 2013), https://www.aclu.org/sites/default/files/assets/eye_on_fbi_-_sars.pdf.

¹⁶ See <https://www.aclu.org/blog>.

The ACLU creates and disseminates original editorial and educational content on civil rights and civil liberties news through multi-media projects, including videos, podcasts, and interactive features.¹⁷ The ACLU also publishes, analyzes, and disseminates information through its heavily visited website, www.aclu.org. The website addresses civil rights and civil liberties issues in depth, provides features on civil rights and civil liberties issues in the news, and contains many thousands of documents relating to the issues on which the ACLU focuses. The ACLU's website also serves as a clearinghouse for news about ACLU cases, as well as analysis about case developments, and an archive of case-related documents. Through these pages, and with respect to each specific civil liberties issue, the ACLU provides the public with educational material, recent news, analyses of relevant Congressional or executive branch action, government documents obtained through FOIA requests, and further in-depth analytic and educational multi-media features.

The ACLU website includes many features on information obtained through the FOIA.¹⁸ For example, the ACLU's "Predator Drones FOIA" webpage contains commentary about the ACLU's FOIA request, press releases, analysis of the FOIA documents, numerous blog posts on the issue, documents related to litigation over the FOIA request, frequently asked questions about targeted killing, and links to the documents themselves.¹⁹ Similarly, the ACLU maintains an online "Torture Database," which compiles more than 100,000 pages of documents that allows researchers and the public to conduct sophisticated searches of FOIA documents relating to government policies on rendition, detention, and interrogation.²⁰

¹⁷ See <https://www.aclu.org/multimedia>.

¹⁸ See, e.g., Nathan Freed Wessler & Dyan Cortez, *FBI Releases Details of 'Zero-Day' Exploit Decisionmaking Process* (June 26, 2015, 11:00 AM), <https://www.aclu.org/blog/free-future/fbi-releases-details-zero-day-exploit-decisionmaking-process>; Nathan Freed Wessler, *FBI Documents Reveal New Information on Baltimore Surveillance Flights* (Oct. 30, 2015, 8:00 AM), <https://www.aclu.org/blog/free-future/fbi-documents-reveal-new-information-baltimore-surveillance-flights>; *ACLU v. DOJ – FOIA Case for Records Relating to the Killing of Three U.S. Citizens*, ACLU Case Page, <https://www.aclu.org/national-security/anwar-al-awlaki-foia-request>; *ACLU v. Department of Defense*, ACLU Case Page, <https://www.aclu.org/cases/aclu-v-department-defense>; *Mapping the FBI: Uncovering Abusive Surveillance and Racial Profiling*, ACLU Case Page, <https://www.aclu.org/mappingthefbi>; *Bagram FOIA*, ACLU Case Page <https://www.aclu.org/cases/bagram-foia>; *CSRT FOIA*, ACLU Case Page, <https://www.aclu.org/national-security/csrt-foia>; *ACLU v. DOJ – Lawsuit to Enforce NSA Warrantless Surveillance FOIA Request*, ACLU Case Page, <https://www.aclu.org/aclu-v-doj-lawsuit-enforce-nsa-warrantless-surveillance-foia-request>; *Patriot FOIA*, ACLU Case Page, <https://www.aclu.org/patriot-foia>; *NSL Documents Released by DOD*, ACLU Case Page, <https://www.aclu.org/nsl-documents-released-dod?redirect=cpreirect/32088>.

¹⁹ <https://www.aclu.org/national-security/predator-drones-foia>.

²⁰ *The Torture Database*, ACLU, <https://www.thetorturedatabase.org>; see also *Countering Violent Extremism FOIA Database*, ACLU, <https://www.aclu.org/foia-collection/cve-foia-documents>; *TSA Behavior Detection FOIA Database*, ACLU, <https://www.aclu.org/foia>

The ACLU has also published a number of charts and explanatory materials that collect, summarize, and analyze information it has obtained through FOIA. For example, through compilation and analysis of information gathered from various sources—including the government through FOIA requests—the ACLU created an original chart that provides the public and news media with a comprehensive summary index of Bush-era Office of Legal Counsel memos relating to interrogation, detention, rendition, and surveillance.²¹ Similarly, the ACLU produced an analysis of documents released in response to a FOIA request about the TSA’s behavior detection program;²² a summary of documents released in response to a FOIA request related to the FISA Amendments Act;²³ a chart of original statistics about the Defense Department’s use of National Security Letters based on its own analysis of records obtained through FOIA requests;²⁴ and an analysis of documents obtained through FOIA requests about FBI surveillance flights over Baltimore.²⁵

The ACLU plans to analyze, publish, and disseminate to the public the information gathered through this Request. The records requested are not sought for commercial use and the requesters plan to disseminate the information disclosed as a result of this Request to the public at no cost.

B. The records sought are urgently needed to inform the public about actual or alleged government activity.

These records are urgently needed to inform the public about actual or alleged government activity. *See* 5 U.S.C. § 552(a)(6)(E)(v)(II).²⁶ Specifically, the requested records relate to DHS’ monitoring of the news media and individual journalists. As discussed in Part I, *supra*, DHS is seeking bids for a contract to build an expansive media monitoring database, but little information is available to the public regarding the nature and purpose of that monitoring.

collection/tsa-behavior-detection-foia-database; *Targeted Killing FOIA Database*, ACLU, <https://www.aclu.org/foia-collection/targeted-killing-foia-database>.

²¹ *Index of Bush-Era OLC Memoranda Relating to Interrogation, Detention, Rendition and/or Surveillance*, ACLU (Mar. 5, 2009), https://www.aclu.org/sites/default/files/pdfs/safefree/olcmemos_2009_0305.pdf.

²² *Bad Trip: Debunking the TSA’s ‘Behavior Detection’ Program*, ACLU (2017), https://www.aclu.org/sites/default/files/field_document/dem17-tsa_detection_report-v02.pdf.

²³ *Summary of FISA Amendments Act FOIA Documents Released on November 29, 2010*, ACLU, <https://www.aclu.org/files/pdfs/natsec/faafoia20101129/20101129Summary.pdf>.

²⁴ *Statistics on NSL’s Produced by Department of Defense*, ACLU, <https://www.aclu.org/other/statistics-nsls-produced-dod>.

²⁵ Nathan Freed Wessler, *FBI Documents Reveal New Information on Baltimore Surveillance Flights* (Oct. 30, 2015, 8:00 AM), <https://www.aclu.org/blog/free-future/fbi-documents-reveal-new-information-baltimore-surveillance-flights>.

²⁶ *See also* 6 C.F.R. § 5.5(e)(1)(ii).

Given the foregoing, the ACLU has satisfied the requirements for expedited processing of this Request.

IV. Application for Waiver or Limitation of Fees

The ACLU requests a waiver of document search, review, and duplication fees on the grounds that disclosure of the requested records is in the public interest and that disclosure 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.” *See* 5 U.S.C. § 552(a)(4)(A)(iii).²⁷ The ACLU also requests a waiver of search fees on the grounds that the ACLU qualifies as a “representative of the news media” and the records are not sought for commercial use. *See* 5 U.S.C. § 552(a)(4)(A)(ii)(II).

A. *The Request 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 ACLU.*

As discussed above, credible media and other investigative accounts underscore the substantial public interest in the records sought through this Request. Given the ongoing and widespread media attention to this issue, the records sought will significantly contribute to public understanding of an issue of profound public importance. Because little specific information about DHS’s monitoring of the media is publicly available, the records sought are certain to contribute significantly to the public’s understanding of why and how DHS intends to monitor the media, and how such monitoring may affect the freedom of the press and the public’s access to information.

The ACLU is not filing this Request to further its commercial interest. As described above, any information disclosed by the ACLU as a result of this FOIA Request will be available to the public at no cost. Thus, a fee waiver would fulfill Congress’s legislative intent in amending FOIA. *See Judicial Watch, Inc. v. Rossotti*, 326 F.3d 1309, 1312 (D.C. Cir. 2003) (“Congress amended FOIA to ensure that it be liberally construed in favor of waivers for noncommercial requesters.” (quotation marks omitted)).

B. *The ACLU is a representative of the news media and the records are not sought for commercial use.*

The ACLU also requests a waiver of search fees on the grounds that the ACLU qualifies as a “representative of the news media” and the records are not sought for commercial use. *See* 5 U.S.C. § 552(a)(4)(A)(ii)(II).²⁸ The ACLU

²⁷ *See also* 6 C.F.R. § 5.5(k)(1).

²⁸ *See also* 6 C.F.R. § 5.11(k)(2)(iii).

meets the statutory and regulatory definitions of a “representative of the news media” because it is an “entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience.” *See* 5 U.S.C. § 552(a)(4)(A)(ii)(III);²⁹ *see also Nat’l Sec. Archive v. DOD*, 880 F.2d 1381, 1387 (D.C. Cir. 1989) (finding that an organization that gathers information, exercises editorial discretion in selecting and organizing documents, “devises indices and finding aids,” and “distributes the resulting work to the public” is a “representative of the news media” for purposes of the FOIA); *Serv. Women’s Action Network v. DOD*, 888 F. Supp. 2d 282 (D. Conn. 2012) (requesters, including the ACLU, were representatives of the news media and thus qualified for fee waivers for FOIA requests to the Department of Defense and Department of Veterans Affairs); *ACLU of Wash. v. DOJ*, No. C09–0642RSL, 2011 WL 887731, at *10 (W.D. Wash. Mar. 10, 2011) (finding that the ACLU of Washington is an entity that “gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience”); *ACLU*, 321 F. Supp. 2d at 30 n.5 (finding non-profit public interest group to be “primarily engaged in disseminating information”). The ACLU is therefore a “representative of the news media” for the same reasons that it is “primarily engaged in the dissemination of information.”

Furthermore, courts have found other organizations whose mission, function, publishing, and public education activities are similar to the ACLU’s to be “representatives of the news media.” *See, e.g., Cause of Action v. IRS*, 125 F. Supp. 3d 145 (D.C. Cir. 2015); *Elec. Privacy Info. Ctr.*, 241 F. Supp. 2d at 10–15 (finding non-profit public interest group that disseminated an electronic newsletter and published books was a “representative of the news media” for purposes of the FOIA); *Nat’l Sec. Archive*, 880 F.2d at 1387; *Judicial Watch, Inc. v. DOJ*, 133 F. Supp. 2d 52, 53–54 (D.D.C. 2000) (finding that Judicial Watch, self-described as a “public interest law firm,” is a news media requester).³⁰

Given these factors, fees associated with responding to FOIA requests are regularly waived for the ACLU as a “representative of the news media.”³¹

²⁹ *See also* 6 C.F.R. § 5.11(b)(6).

³⁰ Courts have found these organizations to be “representatives of the news media” even though they engage in litigation and lobbying activities beyond their dissemination of information / public education activities. *See, e.g., Elec. Privacy Info. Ctr.*, 241 F. Supp. 2d 5; *Nat’l Sec. Archive*, 880 F.2d at 1387; *see also Leadership Conference on Civil Rights*, 404 F. Supp. 2d at 260; *Judicial Watch, Inc.*, 133 F. Supp. 2d at 53–54.

³¹ In August 2017, CBP granted a fee-waiver request regarding a FOIA request for records relating to a muster sent by CBP in April 2017. In May 2017, CBP granted a fee-waiver request regarding a FOIA request for documents related to electronic device searches at the border. In April 2017, the CIA and the Department of State granted fee-waiver requests in relation to a FOIA request for records related to the legal authority for the use of military force in Syria. In

As was true in those instances, the ACLU meets the requirements for a fee waiver here.

* * *

Pursuant to applicable statutes and regulations, the ACLU expects a determination regarding expedited processing within 10 days. *See* 5 U.S.C. § 552(a)(6)(E)(ii); 6 C.F.R. § 5.5(e)(4).

If the Request is denied in whole or in part, the ACLU asks that you justify all deletions by reference to specific exemptions to FOIA. The ACLU expects the release of all segregable portions of otherwise exempt material. The ACLU reserves the right to appeal a decision to withhold any information or deny a waiver of fees.

Thank you for your prompt attention to this matter. Please furnish the applicable records to:

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March 2017, the Department of Defense Office of Inspector General, the CIA, and the Department of State granted fee-waiver requests regarding a FOIA request for documents related to the January 29, 2017 raid in al Ghayil, Yemen. In May 2016, the FBI granted a fee-waiver request regarding a FOIA request issued to the DOJ for documents related to Countering Violent Extremism Programs. In April 2013, the National Security Division of the DOJ granted a fee-waiver request with respect to a request for documents relating to the FISA Amendments Act. Also in April 2013, the DOJ granted a fee-waiver request regarding a FOIA request for documents related to “national security letters” issued under the Electronic Communications Privacy Act. In August 2013, the FBI granted the fee-waiver request related to the same FOIA request issued to the DOJ. In June 2011, the DOJ National Security Division granted a fee waiver to the ACLU with respect to a request for documents relating to the interpretation and implementation of a section of the PATRIOT Act. In March 2009, the State Department granted a fee waiver to the ACLU with regard to a FOIA request for documents relating to the detention, interrogation, treatment, or prosecution of suspected terrorists.

I affirm that the information provided supporting the request for expedited processing is true and correct to the best of my knowledge and belief. See 5 U.S.C. § 552(a)(6)(E)(vi).

Respectfully,



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