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Jonathan Cantor¹
Acting Chief Privacy Officer/Chief FOIA Officer
The Privacy Office
U.S. Department of Homeland Security
245 Murray Lane SW
STOP-0655
Washington, D.C. 20528-0655

Amanda M. Jones²
Acting Chief, FOIA/PA Unit
Criminal Division
Department of Justice
Suite 1127, Keeney Building
950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001
Phone: (202) 616-0307
Fax: (202) 514-6117
Email: crm.foia@usdoj.gov

Melissa Golden
Lead Paralegal and FOIA Specialist
Department of Justice
Room 5511, 950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001
Phone: (202) 514-2053
Email: usdoj-officeoflegalcounsel@usdoj.gov

Office of Information Programs and Services
A/GIS/IPS/RL
U.S. Department of State
Washington, DC 20522-8100
Fax: (202) 261-8579

¹ In addition to other agency components the Department of Homeland Security determines are likely to have responsive records, the ACLU specifically asks that this request also be sent to the Office of International Engagement for processing.

² In addition to other agency components the Department of Justice determines are likely to have responsive records, the ACLU specifically asks that this request also be sent to the Office of International Affairs for processing.

AMERICAN CIVIL LIBERTIES
UNION FOUNDATION
NATIONAL OFFICE
125 BROAD STREET, 18TH FL.
NEW YORK, NY 10004-2400
T/212.549.2500
WWW.ACLU.ORG

OFFICERS AND DIRECTORS
SUSAN N. HERMAN
PRESIDENT

ANTHONY D. ROMERO
EXECUTIVE DIRECTOR

ROBERT B. REMAR
TREASURER

**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”)³ submit this Freedom of Information Act (“FOIA”) request (the “Request”) for records pertaining to the Trump administration’s plans to redefine the United States’ role in the international human rights system with respect to: (1) changes in the U.S.’ voluntary funding of international organizations, (2) its commitment to multilateral agreements, and (3) its participation in international human rights forums.

I. Background

Since Inauguration Day, the Trump administration has pushed for policies and practices that seek to diminish the role of the United States in international organizations, treaties, and forums. On January 25, 2017, the *New York Times* reported the details of two draft Executive Orders. The first, “Auditing and Reducing U.S. Funding of International Organizations,” (hereinafter “Auditing Order”), was intended to enhance “alignment between United States national interests and U.S. monetary support to the United Nations and other international organizations.”⁴ The order would create a funding committee tasked with the responsibility of “Recommend[ing] at least a 40 percent overall reduction” in U.S. annual voluntary funding to international organizations.⁵ If established, this committee could have the power to incapacitate the function of international organizations, and their relevant agencies.⁶ According to the *Times*, while the Auditing Order did not specify which organizations fall under its purview, it did single out international peacekeeping operations, the United Nations Population Fund, and the

³ 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.

⁴ *Auditing and Reducing U.S. Funding of International Organizations Executive Order*, WASH. POST (2017), <https://apps.washingtonpost.com/g/documents/world/read-the-trump-administrations-draft-of-the-executive-order-on-us-funding/2308/>.

⁵ *Id.*

⁶ Colum Lynch, *White House Seeks to Cut Billions in Funding for United Nations*, FOREIGN POLICY, Mar. 13, 2017, <http://foreignpolicy.com/2017/03/13/white-house-seeks-to-cut-billions-in-funding-for-united-nations/>.

International Criminal Court, for “special review”. Furthermore, the Auditing Order prohibits U.S. funding of any international organizations that support – directly or indirectly – abortion, the Palestinian Authority or the Palestinian Liberation Organization.

The second Executive Order, “Moratorium on New Multilateral Treaties,” (hereinafter “Moratorium Order”), was meant to create high-level executive branch committee that would evaluate new and existing international treaties prior to them reaching the President for signing.⁷ This order would reportedly exclude treaties that are “directly related to national security, extradition, or international trade,”⁸ but does not delineate which specific treaties would fall outside of those exemptions. For example, it is unclear whether environmental treaties, like the Paris climate agreement from which President Trump recently announced the U.S.’ withdrawal,⁹ are exempt from the extra layer of review given their intersection with trade issues. Moreover, the Moratorium Order reportedly suggests that the U.N. Convention on the Elimination of All Forms of Discrimination Against Women (“CEDAW”)¹⁰ and the U.N. Convention on the Rights of the Child (“CRC”),¹¹ both signed by the United States on July 17, 1980 and February 16, 1995, respectively, are unnecessarily cumbersome treaties.

The Trump administration has since struggled to gain approval for these draft executive actions. According to the *Times*, the National Security Council put the orders under an elaborate review process with several other government agencies, including the State Department, to examine the potential legal ramifications of the orders.¹² However, the results of this extended process have not yet been made public.

Following the draft orders, President Trump released a preliminary budget proposal, or “skinny budget”, for the remaining fiscal year 2017.¹³ It

⁷ *Moratorium on New Multilateral Treaties Executive Order*, WASH. POST (2017), <https://apps.washingtonpost.com/g/documents/world/read-the-trump-administrations-draft-of-the-executive-order-on-treaties/2307/>.

⁸ *Id.*

⁹ Michael Shear, *Trump Will Withdraw U.S. From Paris Climate Agreement*, N.Y. TIMES, June 1, 2017, https://www.nytimes.com/2017/06/01/climate/trump-paris-climate-agreement.html?_r=0.

¹⁰ Convention on the Elimination of All Forms of Discrimination Against Women, Dec. 18, 1979, 1249 U.N.T.S. 13.

¹¹ Convention on the Rights of the Child, Nov. 20, 1989, 1577 U.N.T.S. 3.

¹² Max Fisher, *Trump Administration Holds Off on Issuing U.N. Funding Order*, N.Y. TIMES, Jan. 28, 2017, https://www.nytimes.com/2017/01/28/world/americas/trump-un-funding-order.html?_r=0.

¹³ Kim Soffen & Denise Lu, *What Trump cut in his budget*, WASH. POST, Mar. 16, 2017, https://www.washingtonpost.com/graphics/politics/trump-presidential-budget-2018-proposal/?utm_term=.74b1197b08d8.

included a 28-percent budget reduction for the State Department’s diplomacy and foreign affairs programs and the United States Agency for International Development (“USAID”).¹⁴ The large cuts attracted criticism from the public, including prominent Republicans, nine former U.S. Ambassadors to the U.N., and the U.N. Secretary-General.¹⁵ Then, on May 23, 2017, President Trump released his budget proposal for fiscal year 2018.¹⁶ It included a 31 percent reduction in funding to the State Department and USAID.¹⁷

Besides proposing a decrease in U.S. funding for international operations, the Trump administration has also sidestepped international human rights forums. On March 21, 2017, the U.S. pulled its participation from the 161st Session of the Inter-American Commission on Human Rights (“IACHR”). The IACHR, a regional human rights body, planned a public hearing to address growing concerns over the Trump administration’s travel ban against individuals from six predominately Muslim countries, its immigration enforcement and detention policies, and its support of the Dakota Access Pipeline.¹⁸ However, officials from the U.S. government did not attend. After press coverage about the United States’ unprecedented absence spread, the State Department claimed “it is not appropriate for the United States to participate in these hearings while litigation on these matters is ongoing in U.S. courts,” referring to litigation around the government’s Muslim ban.¹⁹ It also claimed that the government has

¹⁴ Carol Morello, *State Department’s 28 Percent Cuts Hit Foreign Aid, U.N. and Climate Change*, WASH. POST, Mar. 16, 2017, https://www.washingtonpost.com/world/national-security/state-departments-28-percent-cuts-hit-foreign-aid-un-and-climate-change/2017/03/15/294d7ab8-0996-11e7-a15f-a58d4a988474_story.html?utm_term=.9e9edb4139eb.

¹⁵ Richard Cowan & Roberta Rampton, *Trump’s Budget Cuts to Domestic, Aid Programs Draw Republican Scorn*, REUTERS, Mar. 17, 2017, <http://www.reuters.com/article/us-usa-trump-budget-idUSKBN16M1DO>; Michelle Nichols, *Former U.S. Envoys to U.N. Warn Congress Against Cutting Funding*, REUTERS, Apr. 25, 2017, <http://www.reuters.com/article/us-usa-un-idUSKBN17R2JK>; Michelle Nichols, *U.N. Chief, Trump Meet at White House Amid Funding Cut Threat*, REUTERS, Apr. 21, 2017, <http://www.reuters.com/article/us-usa-un-idUSKBN17N277>.

¹⁶ Press Statement, Rex Tillerson, *Department of State and USAID FY 2018 Budget Request* (May 23, 2017), available at: <https://www.state.gov/secretary/remarks/2017/05/271051.htm>.

¹⁷ Josh Rogin, *Lindsay Graham: Trump’s State Department Budget Could Cause ‘A Lot of Benghazi’s*, WASH. POST, May 23, 2017, https://www.washingtonpost.com/news/josh-rogin/wp/2017/05/23/lindsey-graham-trumps-state-department-budget-could-cause-a-lot-of-benghazis/?utm_term=.6ce1bbe0085b.

¹⁸ Jamil Dakwar, *In an Unprecedented No-Show, the U.S. Pulls Out of Planned Human Rights Hearing*, ACLU SPEAK FREELY BLOG, Mar. 21, 2017, <https://www.aclu.org/blog/speak-freely/unprecedented-no-show-us-pulls-out-planned-human-rights-hearing>.

¹⁹ Elise Foley, *Trump Administration Is a No-Show At Hearings on Human Rights*, HUFFINGTON POST, Mar. 22, 2017, http://www.huffingtonpost.com/entry/trump-administration-iachr_us_58d17201e4b0be71dcf8b27b.

“tremendous respect for the role performed by the IACHR in safeguarding human rights . . . in the United States.”²⁰ Yet, the United States has appeared before the IACHR for several other matters, including on Guantánamo and the CIA torture program, during which litigation was pending on both subjects.²¹

Overall, the Trump administration’s recent attempts to weaken domestic ties to international organizations, treaties, and forums, raise serious concerns. Just recently, the U.S. Ambassador to the United Nations, Nikki Haley, indicated to the U.N. Human Rights Council that the U.S. may soon withdraw its participation in the Council due to its perceived “anti-Israel bias”.²² But the United States is an important participant and contributor to several international organizations, as well as a founding member of the United Nations since 1945²³ and a signatory to several human rights treaties. As such, it is expected to uphold the values inherent in the U.N. Declaration of Human Rights and is obligated to protect fundamental freedoms and human rights. This FOIA seeks information surrounding any changes to the U.S.’ voluntary funding of international organizations, its commitment to multilateral agreements, and its participation in international human rights forums in order to ensure democratic oversight and public accountability over the President and his administration’s conduct.

To provide the American public with information about the Trump administration’s positions concerning the United States’ working relationships with international organizations, processes, and treaty bodies—information that is crucial to the public given the United States’ historic involvement with and support for international treaties and organizations—the ACLU seeks such information through this FOIA request.

II. Requested Records

The ACLU seeks the following records created on or between Inauguration Day, January 20, 2017, to the Present:

²⁰ *Id.*

²¹ Regional and Global Perspectives on Impunity for CIA Torture: The Right to Remedies and Reparation, ACLU Webpage, <https://www.aclu.org/other/regional-and-global-perspectives-impunity-cia-torture-right-remedies-and-reparation> (last visited 6/1/2017).

²² Mythili Sampathkumar, *Nikki Haley Warns US May Pull Out of UN Human Rights Council Over ‘Anti-Israel Bias’*, INDEPENDENT, Jun. 6, 2017, <http://www.independent.co.uk/news/world/americas/us-politics/nikki-haley-un-human-rights-council-anti-israel-bias-ambassador-arab-countries-saudi-arabia-a7775381.html>; *See also* Stephanie Nebehay, *U.S. Tells U.N. Rights Forum to Remove ‘Chronic anti-Israel Bias’*, REUTERS, Jun. 6, 2017, <http://uk.reuters.com/article/uk-usa-un-rights-idUKKBN18X16W>.

²³ Charter of the United Nations and Statute of the International Court of Justice. Aug. 8, 1945, ratified by the United States on August 8, 1945.

- (1) Memoranda, procedures, policies, directives, guidance, or guidelines for State Department staff on policies concerning the United States' participation in any new or existing multilateral agreements and international organizations, including the United Nations, the Organization for American States, the Organization for Security and Co-operation in Europe, other international organizations with sovereign states as members, or any international organization within the diplomatic portfolio of the Bureau of International Organization Affairs of the Department of State;
- (2) Memoranda, procedures, policies, directives, guidance, or guidelines for State Department staff, including any communication with the Secretary of State, the Secretary of Defense, the Attorney General, the Director of the Office of Management and Budget, the Director of National Intelligence, or their respective designees, about the federal government's intent to review, abrogate, or maintain any and all multilateral agreements with international treaty bodies, agencies, organizations, or forums;
- (3) Memoranda, procedures, policies, directives, guidance, or guidelines for State Department staff about any intent from the Office of the President to defund specific international organizations and their programs;
- (4) Memoranda, procedures, policies, directives, guidance, or guidelines for State Department staff about the reduction in the total federal spending budget for international organizations and their programs; and
- (5) Memoranda, procedures, policies, directives, guidance, or guidelines for State Department staff on the United States' participation in the United Nations, including the U.N. Human Rights Council, and the Inter-American Commission on Human Rights ("IACHR") public hearing process, including records concerning the 161st Session of the IACHR on March 21, 2017.

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).²⁴ 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 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).²⁵ Obtaining information about government activity, analyzing that information, and widely publishing and disseminating that information 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”).²⁶

The ACLU regularly publishes *STAND*, a print magazine that reports on and analyzes civil liberties-related current events. The magazine is disseminated to over 620,000 people. The ACLU also publishes regular updates and alerts via email to over 2.6 million subscribers (both ACLU members and non-members). These updates are additionally broadcast to over 3.2 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,²⁷

²⁴ *See also* 22 C.F.R. § 171.11(f); 6 C.F.R. 5.5(e); 28 C.F.R. 16.5(e).

²⁵ *See also* 22 C.F.R. § 171.11(f)(2); 6 C.F.R. 5.5(e)(1)(ii); 28 C.F.R. 16.5(e)(1)(ii).

²⁶ Courts have found that the ACLU as well as other organizations with similar missions that engage in information-dissemination activities similar to the ACLU 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).

²⁷ *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

and ACLU attorneys are interviewed frequently for news stories about documents released through ACLU FOIA requests.²⁸

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.²⁹ The ACLU also regularly publishes books, “know your rights” materials, fact sheets, and

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

²⁸ 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).

²⁹ 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.

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. *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. *See* <https://www.aclu.org/multimedia>. 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 is focused. 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.

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The ACLU website includes many features on information obtained through the FOIA.³⁰ For example, the ACLU's "Predator Drones FOIA" webpage, <https://www.aclu.org/national-security/predator-drones-foia>, 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. Similarly, the ACLU maintains an online "Torture Database," a compilation of over 100,000 pages of FOIA documents that allows researchers and the public to conduct sophisticated searches of FOIA documents relating to government policies on rendition,

³⁰ *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=cpredirect/32088>.

detention, and interrogation.³¹

The ACLU has also published a number of charts and explanatory materials that collect, summarize, and analyze information it has obtained through the FOIA. For example, through compilation and analysis of information gathered from various sources—including information obtained from 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.³² Similarly, the ACLU produced an analysis of documents released in response to a FOIA request about the TSA’s behavior detection program³³; a summary of documents released in response to a FOIA request related to the FISA Amendments Act³⁴; 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 requests³⁵; and an analysis of documents obtained through FOIA requests about FBI surveillance flights over Baltimore.³⁶

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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.

³¹ *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-collection/tsa-behavior-detection-foia-database>; *Targeted Killing FOIA Database*, ACLU, <https://www.aclu.org/foia-collection/targeted-killing-foia-database>.

³² *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.

³³ *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.

³⁴ *Summary of FISA Amendments Act FOIA Documents Released on November 29, 2010*, ACLU, <https://www.aclu.org/files/pdfs/natsec/faafoia20101129/20101129Summary.pdf>.

³⁵ *Statistics on NSL’s Produced by Department of Defense*, ACLU, <https://www.aclu.org/other/statistics-nsls-produced-dod>.

³⁶ 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>.

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).³⁷ Specifically, the requested records relate to any plans by the Trump administration's to curtail the United States' participation in the international human rights system by reducing its voluntary funding of international organizations, its ties to multilateral agreements, and its participation in international human rights forums. As discussed in Part I, *supra*, cutting the United States' role in international organizations, treaties, or forums could significantly affect overseas security and domestic accountability, and are the subject of widespread public controversy and media attention.³⁸ The records sought relate to a matter of widespread and exceptional media interest in U.S. foreign affairs.³⁹

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 because 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." 5 U.S.C. § 552(a)(4)(A)(iii).⁴⁰ 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. 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 the President's desire to cut funding to specific international organizations, treaties, or programs is publicly available, the records sought are certain to contribute significantly to the public's understanding of the compatibility of domestic policy with international human rights standards.

³⁷ *See also* 22 C.F.R. § 171.11(f)(2); 6 C.F.R. 5.5(e)(1)(ii); 28 C.F.R. 16.5(e)(1)(ii).

³⁸ *Supra* note 12, 13, 15, 16, 20, and accompanying text.

³⁹ *See Id.*

⁴⁰ *See also* 22 C.F.R. § 171.16(a); 6 C.F.R. 5.11(k)(1)(i)-(ii); 28 C.F.R. 16.10(k)(1)(i)-(ii).

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. 5 U.S.C. § 552(a)(4)(A)(ii)(II).⁴¹ The ACLU 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." 5 U.S.C. § 552(a)(4)(A)(ii)(III)⁴²; *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 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 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 in kind to the ACLU's to be "representatives of the news media" as well. *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

⁴¹ *See also* 22 C.F.R. § 171.16 (a)(iii); 6 C.F.R. 5.11(k)(2)(iii); 28 C.F.R. 16.10(k)(2)(iii).

⁴² *See also* 22 C.F.R. § 171.14(b)(5)(ii)(C); 6 C.F.R. 5.11(b)(6); 28 C.F.R. 16.10(b)(6).

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 Judicial Watch, self-described as a “public interest law firm,” a news media requester).⁴³

On account of these factors, fees associated with responding to FOIA requests are regularly waived for the ACLU as a “representative of the news media.”⁴⁴ 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)(I); 22 C.F.R. § 171.11(f)(4); 6 C.F.R. 5.5(e)(4); 28 C.F.R. 16.5(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:

Jamil Dakwar
American Civil Liberties Union

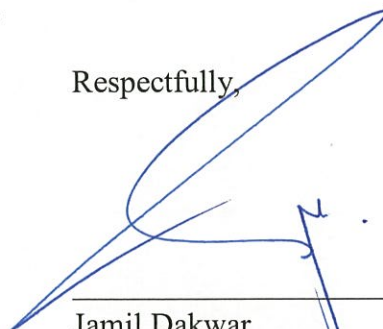
⁴³ Courts have found these organizations to be “representatives of the news media” even though they engage in litigation and lobbying activities beyond their dissemination of information / public education activities. *See, e.g., Elec. Privacy Info. Ctr.*, 241 F. Supp. 2d 5; *Nat’l Sec. Archive*, 880 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.

⁴⁴ In May 2017, CBP granted a fee-waiver request regarding a FOIA request for documents related to electronic device searches at the border. 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.

125 Broad Street—18th Floor
New York, New York 10004
T: 212.549.2500
F: 212.549.2654
jdakwar@aclu.org

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,



Jamil Dakwar
Director, Human Rights Program
American Civil Liberties Union
Foundation
125 Broad Street—18th Floor
New York, New York 10004
T: 212.549.2500
F: 212.549.2654
jdakwar@aclu.org

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UNION FOUNDATION