

EXHIBIT 1



February 1, 2018

Nelson D. Hermila, Chief
FOIA/PA Branch
Civil Rights Division
Department of Justice
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Karen McFadden, FOIA Contact
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Laurie Day, Chief, Initial Request Staff
Office of Information Policy
Department of Justice
Suite 11050
1425 New York Avenue, N.W.
Washington, DC 20530-0001
Phone: (202) 514-1009

Via U.S. Mail and Email and Online Form

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

To Whom It May Concern,

Campaign Legal Center (“CLC”) submits this Freedom of Information Act (“FOIA”) request for all records pertaining to Arthur E. Gary’s December 12, 2017 request to the Census Bureau to add a Citizenship question to the 2020 Census Questionnaire. The Census Bureau must make final decisions regarding Census questions and submit them to Congress by **March 31, 2018**. Given the national importance and urgency of this issue, we ask that the Department of Justice (“Department”) expedite processing of this request.

Background

On December 12, 2017, Arthur E. Gary, General Counsel of the Justice Management Division, wrote a letter to Ron Jarmin, Acting Director of the U.S. Census Bureau, urging him to include a citizenship question on the 2020 Census questionnaire. In this letter, Gary stated, “the Department needs a reliable calculation of the citizen voting-age population in localities where voting rights violations are alleged or suspected.”¹ He further opined, “the decennial census questionnaire is the most appropriate vehicle for collecting that data, and reinstating a question on citizenship will best enable the Department to protect all American citizens’ voting rights under Section 2.” From this, he concluded, “the Department believes that decennial census questionnaire data regarding citizenship, if available, would be more appropriate for use in redistricting and Section 2 litigation than the [American Community Survey (“ACS”)] citizenship estimates.” However, Gary provided no probative evidence that the Department’s current voting rights litigation suffers from using the ACS data available nor that adding a citizenship Census question would, on balance, improve the accuracy of available data.²

To the contrary, members of the communities DOJ claims to seek to protect, as well as leading voting rights experts and former Census Bureau officials, all agree that adding a citizenship question, particularly at this late stage in preparations, will invoke fear in immigrant communities and exacerbate the already dangerous undercount of those communities.³ Many households in the United States include a

¹ Letter from Arthur E. Gary to Dr. Ron Jarmin, Dec. 12, 2017, <https://www.documentcloud.org/documents/4340651-Text-of-Dec-2017-DOJ-letter-to-Census.html>.

² The Editorial Board, *Census 2020 Doesn’t Need Citizenship Question*, USA Today, Jan. 8, 2018, <https://www.usatoday.com/story/opinion/2018/01/08/census-2020-no-citizenship-question-editorials-debates/1007921001/> (“The government, moreover doesn’t need citizenship data in more detail than it already gets through the ACS. The Supreme Court has ruled that political districts are to be drawn according to their number of residents, not their number of citizens. And federal spending on roads, law enforcement and other services follows similar logic.”).

³ Justin Elliot, *Trump Justice Department Pushes for Citizenship Question on Census, Alarming Experts*, ProPublica, Dec. 29, 2017, <https://www.propublica.org/article/trump-justice-department-pushes-for-citizenship-question-on-census-alarming-experts> (“People are not going to come out to be counted because they’re going to be fearful the information would be used for negative purposes,” said Steve Jost a former top bureau official during the 2010 census.) (“This is a recipe for sabotaging the census,” said Arturo Vargas, a member of the National Advisory Committee of the Census and the executive director of NALEO Educational Fund, a Latino advocacy group. “When you start adding last-minute questions that are not tested — how will the public understand the question? How much will it suppress response rates?”); see also Priscilla Alvarez, *The Controversial Question DOJ Wants to Add to the U.S. Census*, The Atlantic, Jan. 10, 2018, <https://www.theatlantic.com/politics/archive/2018/01/the-controversial-question-doj-wants-to-add-to-the-us-census/550088/> (“I think the argument ridiculous. The Justice Department never needed or asked for that question on the short form of the census before and the enforcement of the Voting Rights Act does not need it,” said Vanita Gupta, the president and CEO of the Leadership Conference on Civil and Human Rights who ran DOJ’s Civil Rights Division . . .”).

mix of citizens, documented immigrants, and undocumented immigrants. This question will lead to a serious undercount of these households. In 2015, CLC submitted an *amicus* brief to the Supreme Court on behalf of four former directors of the Census explaining that the sum effect of adding a citizenship question “would be bad Census data.”⁴

CLC does not believe that the American people should be left in the dark concerning an issue that is sure to affect one of the most fundamental rights we have as Americans. It is vital that the public receive up-to-date information as soon as possible about the DOJ’s request to include the citizenship question in the 2020 Census. The Census Bureau must make final decisions regarding Census questions and submit them to Congress by March 31, 2018.⁵ Last week, the Census Bureau reported that its lawyers are currently reviewing the DOJ’s request.⁶

Request

CLC requests copies of the following documents pursuant to the Freedom of Information Act, 5 U.S.C. §552. We ask that you search for responsive documents from the following components: Justice Management Division, the Attorney General’s Office, and the Civil Rights Division.

For the time period from January 20, 2017 to the present, any and all documents—including draft and final memoranda, recommendations, legal opinions, policy advisories or evaluations, educational materials, and all correspondence and communications, including emails,⁷ letters, social media posts, and Twitter direct messages—within the following categories:

- Any documents to, from, or mentioning Dr. Ron Jarmin or Dr. Enrique Lamas;
- Any documents containing the following phrases: “2020 census,” “long form,” “citizenship question,” “question regarding citizenship,” “ACS,” “American Community Survey,” “citizen voting age population,” or “CVAP.”

⁴ Brief of Former Directors of the U.S. Census Bureau As *Amicus Curiae* In Support of Appellees at 25, *Evenwel v. Abbott*, 136 S. Ct. 1120 (2016), <http://www.campaignlegalcenter.org/document/evenwel-v-abbott-supreme-court-amici-brief-clc-behalf-former-directors-us-census-bureau>; Hansi Lo Wang, *Adding Citizenship Question Risks ‘Bad Count’ For 2020 Census, Experts Warn*, NPR, Jan. 10, 2018, <https://www.npr.org/2018/01/10/575145554/adding-citizenship-question-risks-bad-count-for-2020-census-experts-warn>.

⁵ U.S. Census Bureau, *Three Years to Go, Census Bureau Prepares for 2020 Census*, Mar. 31, 2017, <https://www.census.gov/newsroom/press-releases/2017/cb17-tps28.html>.

⁶ Gregory Wallace, *Census citizenship question under legal review*, CNN, Jan. 26, 2018, <https://www.cnn.com/2018/01/26/politics/census-bureau-citizenship/index.html>

⁷ Please note that this request applies to all emails, sent and received, on governmental email addresses, as well as to all emails, sent and received, on all other email addresses and accounts used by Department of Justice personnel to conduct official business.

Request for Expedited Processing

Campaign Legal Center requests expedited processing of this records request. 5 U.S.C. § 552(a)(6)(E); 28 C.F.R. 16.5(e)(1)(ii), (iv). CLC certifies that this is a true and correct statement detailing the basis for our request for expedited processing. We have filed this statement with the appropriate FOIA contacts.⁸

CLC requests expedited processing because there is an “urgency to inform the public” about the “actual or alleged federal government activity” covered by the request and CLC is an organization “primarily engaged” in “disseminating information.” 28 C.F.R. 16.5(e)(1)(ii); 5 U.S.C. § 552(a)(6)(E)(v)(II). Indeed, a final decision on the matter in question must be made by March 31, 2018. The public deserves access to these records before final decisions are made on this question of national importance. Further, the information requested involves “a matter of widespread and exceptional media interest,” and raises “possible questions about the government’s integrity that affect public confidence.” 28 C.F.R. 16.5(e)(1)(iv).

A. Request for Expedited Processing Under 5 U.S.C. § 552(a)(6)(E)(v)(II) and 28 C.F.R. 16.5(e)(1)(ii).

CLC is primarily engaged in disseminating information to the public about actual or alleged government activity 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); *see also, ACLU v. DOJ*, 321 F. Supp. 2d 24, 29 n.5 (D.D.C. 2004) (finding that such organizations are “representative[s] of the news media” and are “primarily engaged in disseminating information”).

CLC maintains a website⁹ that provides a wealth of editorial content about democracy law issues, including campaign finance, voting rights, redistricting, and ethics. CLC also publishes a regularly updated blog with original editorial and educational content,¹⁰ and communicates its research analysis through multiple social media platforms such as Facebook, Twitter, and Medium.¹¹ CLC also disseminates original editorial and educational content to the public through op-eds,¹²

⁸ *Find A FOIA Contact at DOJ*, THE UNITED STATES DEPARTMENT OF JUSTICE, <https://www.justice.gov/oip/find-foia-contact-doj/list>.

⁹ Campaign Legal Center, www.campaignlegalcenter.org.

¹⁰ Blog, Campaign Legal Center, <http://www.campaignlegalcenter.org/news/262>.

¹¹ Campaign Legal Center, Facebook, <https://www.facebook.com/CampaignLegalCenter/>; Campaign Legal Center, Twitter, <https://twitter.com/CampaignLegal>; Campaign Legal Center, Medium, <https://medium.com/clc-blog>.

¹² *See e.g.*, Trevor Potter, *Donald Trump Hasn't Solved Any of His Conflicts of Interest*, Wash. Post, Jan. 11, 2017, https://www.washingtonpost.com/posteverything/wp/2017/01/11/donald-trump-hasnt-solved-any-of-his-conflicts-of-interest/?utm_term=.0e80b538fb8f.

press releases,¹³ email newsletters, public reports,¹⁴ fact sheets,¹⁵ videos,¹⁶ and other materials. CLC staff is frequently interviewed for news stories.¹⁷ CLC additionally applies editorial skill to analyze and disseminate materials to other news media outlets, which regularly cite and rely upon CLC's work.

CLC is not filing this request to further its commercial interest. CLC is a nonprofit, nonpartisan 501(c)(3) organization. Any information disclosed to CLC by way of this request will be made available to the public at no cost. CLC will also use documents responsive to the request to create analytical content—from op-eds to reports to blogs—that will further educate the public about these matters.

An urgent need for expedited processing exists where the records requested touch on an issue that is “the subject of current news coverage.” *Al-Fayed v. CIA*, 254 F.3d 300, 308 (D.C. Cir. 2001). The DOJ's controversial letter to the Census Bureau is a continuous source of significant news coverage and public interest since it has become public. It has garnered a great deal of public attention.¹⁸ As discussed above,

¹³ Press Releases, Campaign Legal Center, <http://www.campaignlegalcenter.org/news/286>.

¹⁴ See e.g., Make Democracy Count: Ending Partisan Gerrymandering, Campaign Legal Center (Aug. 10, 2016), <http://www.campaignlegalcenter.org/document/make-democracy-count-ending-partisan-gerrymandering>; Ruth Greenwood, Analysis: Partisan Gerrymandering in the 2016 Election, Campaign Legal Center (Jan. 9, 2017), <http://www.campaignlegalcenter.org/news/blog/analysis-partisan-gerrymandering-2016-election>; Funding the Presidential Nominating Conventions: How a Trickle of Private Money Turned Into a Flood, Campaign Legal Center (June 14, 2016), <http://www.campaignlegalcenter.org/document/funding-presidential-nominating-conventions-how-trickle-private-money-turned-flood>.

¹⁵ See e.g., Backgrounder: Record of Supreme Court Nominee Neil Gorsuch on Democracy Law, Campaign Legal Center (Feb. 2, 2017), <http://www.campaignlegalcenter.org/news/update/backgrounder-record-supreme-court-nominee-neil-gorsuch-democracy-law>.

¹⁶ See e.g., *Meet the Victims of Texas' Voter Photo ID Law*, Campaign Legal Center, Apr. 28, 2015, <http://www.campaignlegalcenter.org/news/press-releases/meet-victims-texas-voter-photo-id-law>.

¹⁷ Media Coverage, Campaign Legal Center, <http://www.campaignlegalcenter.org/news/241>.

¹⁸ See, e.g., Hansi Lo Wang, *Adding Citizenship Question Risks 'Bad Count' For 2020 Census, Experts Warn*, NPR, Jan. 10, 2018, <https://www.npr.org/2018/01/10/575145554/adding-citizenship-question-risks-bad-count-for-2020-census-experts-warn>; Justin Elliot, *Trump Justice Department Pushes for Citizenship Question on Census, Alarming Experts*, ProPublica Dec. 29, 2017, <https://www.propublica.org/article/trump-justice-department-pushes-for-citizenship-question-on-census-alarming-experts>; Priscilla Alvarez, *The Controversial Question DOJ Wants to Add to the U.S. Census*, The Atlantic, Jan. 10, 2018, <https://www.theatlantic.com/politics/archive/2018/01/the-controversial-question-doj-wants-to-add-to-the-us-census/550088/>; The Editorial Board, *Census 2020 Doesn't Need Citizenship Question*, USA Today, Jan. 8, 2018, <https://www.usatoday.com/story/opinion/2018/01/08/census-2020-no-citizenship-question-editorials-debates/1007921001/> (“Why does the administration want to ask the citizenship of every person in every home in America? The only plausible explanation is that it wants to depress participation among immigrant groups. That’s not a very good answer.”); Raul A. Reyes, *The Question That Could Sabotage The Census*, CNN, Jan. 2, 2018 (“[D]oes anyone seriously believe that Attorney General Jeff Sessions, head of the Department of Justice, is concerned about minority voting rights?”); Catherine Rampell, *The GOP Is Sabotaging This Sacred Mandate*, The Wash. Post, Jan. 4, 2018, <https://www.washingtonpost.com/opinions/tthe-gop-is-sabotaging-one-of-governments-most->

a final decision on 2020 Census questions must be made by March 31, 2018, when the Census must submit the questions to Congress. The public deserves access to the records discussing the DOJ's last-minute request before the matter is closed for debate.

B. Request for Expedited Processing Under 5 U.S.C. § 552(a)(6)(E) and 28 C.F.R. § 16.5(e)(1)(iv)

CLC requests expedited processing because the requested records involve “a matter of widespread and exceptional media interest in which there exist possible questions about the government’s integrity that affect public confidence.” 28 C.F.R. § 16.5(e)(1)(iv). For the reasons discussed above, it is clear that whether the Census Bureau will include a citizenship question on the 2020 census is a question of enormous media and public interest that affects public confidence in the government. Indeed, it goes to the heart of the public’s confidence in our democratic system of government.

Application for Waiver or Limitation of Fees

CLC 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). The requested records will provide the public with critical information.

As noted above, CLC is not filing this request to further its commercial interest. A fee waiver would further Congress’ intent in providing for waivers for noncommercial requesters. *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.”).

CLC also requests a fee waiver because CLC 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). As noted above, CLC 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).

The D.C. Circuit has held that a requester may qualify as a news media entity if it “‘distribute[s] [its] work’ by issuing press releases to media outlets in order to

sacred-mandates/2018/01/04/da27ad60-f197-11e7-b3bf-ab90a706e175_story.html?utm_term=.65f29aab81a0 (“Apparently not content to shortchange funding, the administration is also taking steps that will actively decrease participation [in the census]”); Anjana Ahuja, *When Census Takin Is A Recipe For Controversy*, Financial Times, Jan. 8, 2018, <https://www.ft.com/content/9cddb7d0-f456-11e7-a4c9-bbdefa4f210b>.

reach the public indirectly.” *Cause of Action v. FTC*, 799 F.3d. 1108, 1125-26 (D.C. Cir. 2015). Courts have found that other organizations with functionally similar missions engaged in similar public education activities qualify as “representative[s] of the news media,” even if engaged in litigation or other advocacy beyond educating the public about the operations of government. *See, e.g., id.* at 1121-25 (finding a public interest advocacy organization that comments to other media outlets about documents it obtains under FOIA a news media requester); *Elec. Privacy Info. Ctr. v. DOD*, 241 F. Supp. 2d 5, 10-15 (D.D.C. 2003) (finding nonprofit public interest group that published a biweekly email newsletter a news media requester); *Judicial Watch, Inc. v. DOJ*, 133 F. Supp. 2d 52, 53-54 (D.D.C. 2000) (finding “public interest law firm” Judicial Watch a news media requester).

“It is critical that the phrase ‘representative of the news media’ be interpreted broadly if the act is to work as expected, . . . In fact, *any person or organization which regularly publishes or disseminates information to the public . . . should qualify for waivers as a ‘representative of the news media.’*” 132 Cong. Rec. S14298 (daily ed. Sept. 30, 1986), cited in *Nat’l Sec. Archive v. U.S. Dep’t of Def.*, 880 F.2d 1381, 1386 (D.C. Cir. 1989). Given the foregoing, there can be no doubt that CLC performs important functions as a “representative of the news media,” as defined by the relevant statute and regulations.

In the event the fee waiver is not granted, CLC may not be charged for the first two hours of search time, or for the first hundred pages of duplication. Please contact me and advise me of the cost of this request if processing costs exceed \$100. You can contact me at 202-856-7911 or at dlang@campaignlegalcenter.org.

Withholding of Documents

If the Department determines that any of the requested documents are exempt from disclosure, please provide a *Vaughn* index describing any such document(s) or parts of document(s) withheld; and the justification for withholding any document(s) or any part of any document(s), including the specific exemption claimed and the consequences of providing the withheld information. *See Vaughn v. Rosen*, 484 F.2d 820, 827 (D.C. Cir. 1973); *Mead Data Central, Inc. v. U.S. Dep’t of Air Force*, 566 F.2d 242, 251 (D.C. Cir. 1977) (“we require that when an agency seeks to withhold information it must provide a relatively detailed justification, specifically identifying the reasons why a particular exemption is relevant and correlating those claims with the particular part of a withheld document to which they apply”); *King v. Dep’t of Justice*, 830 F.2d 210, 223-24 (D.C. Cir. 1987) (“A withholding agency must describe *each* document or portion thereof withheld, and for *each* withholding it must discuss the consequences of disclosing the sought-after information”). For any document or record for which an exemption is claimed, please disclose any reasonably segregable non-exempt portion of the requested document or record. 5 U.S.C. § 552(b).

Conclusion

Pursuant to Department regulations, CLC expects notification of a decision on its request for expedited processing within ten days, 28 C.F.R. 16.5(e)(4). Even if expedited processing should be rejected, CLC expects a response to this Request within twenty working days, as required by statute. 5 U.S.C. § 552(a)(6)(A).

Thank you for your prompt attention to this matter. Where possible, please send the requested records electronically to dlang@campaignlegalcenter.org. Please furnish all applicable paper records to: Danielle Lang, Campaign Legal Center, 1411 K Street NW, Suite 1400, Washington, DC 20005. If you have any questions, please contact me by email or by telephone at 202-856-7911.

Sincerely,

s/ Danielle M. Lang

Danielle Lang
Senior Counsel*—Voting Rights & Redistricting
Campaign Legal Center
1411 K Street N.W., Suite 1400
Washington, DC 20005

*Admitted in New York and California only; practice limited to U.S. courts and federal agencies

EXHIBIT 2



U.S. Department of Justice
Office of Information Policy
Suite 11050
1425 New York Avenue, NW
Washington, DC 20530-0001

Telephone: (202) 514-3642

February 9, 2018

Ms. Danielle Lang
Campaign Legal Center
1411 K Street, NW
Suite # 1400
Washington, DC 20005
dlang@campaignlegalcenter.org

Re: DOJ-2018-002496 (AG)
VRB:VAV:JMS

Dear Ms. Lang:

This is to acknowledge receipt of your Freedom of Information Act (FOIA) request dated and received in this Office on February 1, 2018, in which you requested (1) documents to, from, or mentioning Dr. Ron Jarmin or Dr. Enrique Lamas; and (2) documents containing the phrases "2020 census," "long form," "citizenship question," "question regarding citizenship," "ACS," "American Community Survey," "citizen voting age population," or "CVAP," dating since January 20, 2017. This response is made on behalf of the Office of the Attorney General.

You have requested expedited processing of your request. I have determined that your request for expedited processing should be granted. Accordingly, your request has been assigned to an analyst in this Office and our processing of it has been initiated.

Although your request has been granted expedited processing, we are required to advise you that the records you seek require a search in and/or consultation with another Office, and so your request falls within "unusual circumstances." See 5 U.S.C. 552 § (a)(6)(B)(i)-(iii). Accordingly, we have not yet completed a search to determine whether there are records within the scope of your request. The time needed to process your request will necessarily depend on the complexity of our records search and on the volume and complexity of any records located. Your request has been assigned to the expedited track and will be processed as soon as practicable.

We have not yet made a decision on your request for a fee waiver. We will do so after we determine whether fees will be assessed for this request. In your request, you agreed to pay fees up to \$100 in the event that a fee waiver is not granted.

If you have any questions or wish to discuss reformulation or an alternative time frame for the processing of your request, you may contact the analyst handling your request, James Smith, by telephone at the above number or you may write to him at the above address. You may also contact our FOIA Public Liaison, Douglas Hibbard, for any further assistance and to discuss any aspect of your request at: Office of Information Policy, United States Department

of Justice, Suite 11050, 1425 New York Avenue, NW, Washington, DC 20530-0001; telephone 202-514-3642; or facsimile 202-514-1009.

Lastly, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, Maryland 20740-6001; e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Sincerely,

A handwritten signature in blue ink that reads "Vanessa R. Brinkmann" with a small "for" written below the name.

Vanessa R. Brinkmann
Senior Counsel

EXHIBIT 3

BUCKLEY SANDLER

Adam Miller
Partner
1250 24th Street NW, Suite 700
Washington, DC 20037
t. 202 349-7958
amiller@buckleysandler.com

May 18, 2018

James Smith, FOIA Analyst
Douglas Hibbard, FOIA Public Liaison
Office of Information Policy
U.S. Department of Justice
Suite 11050
1425 New York Avenue, N.W.
Washington, D.C. 20530-0001

RE: Freedom of Information Act Request DOJ-2018-002496 (AG)

Dear Mr. Smith and Mr. Hibbard:

Buckley Sandler represents the Campaign Legal Center (“CLC”) in connection with the above referenced Freedom of Information Act request. We write to address the lack of progress in completing the request since your office granted expedited processing on February 9, 2018 and your office’s failure to provide a date by which the expedited processing of the request will be complete.

On February 1, 2018, CLC submitted a FOIA request to the Office of the Attorney General for records pertaining to a request by Arthur E. Gary, the General Counsel of DOJ’s Justice Management Division, to the Census Bureau to add a citizenship question to the 2020 Census Questionnaire. In particular, CLC sought (1) documents to, from, or mentioning Dr. Ron Jarmin or Dr. Enrique Lamas; and (2) documents containing the phrases “2020 census,” “long form,” “citizenship question,” “questions regarding citizenship,” “ACS,” “American Community Survey,” “citizen voting age population,” or “CVPA,” dating from January 20, 2017 to the present.

CLC requested expedited processing because there is an “urgency to inform the public” about the “actual or alleged government activity” covered by the request. Further, the requested records involve “a matter of widespread and exceptional media interest in which there exist possible questions about the government’s integrity that affect public confidence.” 28 C.F.R. § 16.5(e)(1)(iv). Indeed, the Census Bureau’s decision to include a citizenship question on the 2020 census has gathered enormous media and public interest that affects public confidence in the government.

On February 9, 2018, your office granted CLC’s request for expedited processing of the FOIA request, thereby acknowledging the urgency of responding to the request. While your office noted that the request falls within unusual circumstances under 5 U.S.C. 552 § (a)(6)(B)(i)-(iii), it failed to provide CLC with the date on which a determination is expected, as required by the

May 18, 2018

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statute. Despite the urgent nature of the FOIA request and the grant of expedited processing on February 9, 2018, the request has yet to be completed and no updates have been provided.

Please provide an update on the processing of the request and an expected completion date. We are prepared to seek judicial relief if we do not receive a determination promptly. Please do not hesitate to contact me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Adam Miller', with a long horizontal flourish extending to the right.

Adam Miller

EXHIBIT 4

BUCKLEY SANDLER

Adam Miller
Partner
1250 24th Street NW, Suite 700
Washington, DC 20037
t. 202 349-7958
amiller@buckleysandler.com

VIA FEDEX AND EMAIL

June 22, 2018

James Smith, FOIA Analyst
Douglas Hibbard, FOIA Public Liaison
Office of Information Policy
U.S. Department of Justice
Suite 11050
1425 New York Avenue, N.W.
Washington, D.C. 20530-0001
DOJ.OIP.FOIA@usdoj.gov

RE: Freedom of Information Act Request DOJ-2018-002496 (AG)

Dear Mr. Smith and Mr. Hibbard:

We write to address the lack of response to our letter dated May 18, 2018 and your lack of progress in completing the above referenced request since your office granted expedited processing on February 9, 2018.

As we described in our previous letter, on February 1, 2018, CLC submitted a FOIA request to the Office of the Attorney General for records pertaining to a request by Arthur E. Gary, the General Counsel of DOJ's Justice Management Division, to the Census Bureau to add a citizenship question to the 2020 Census Questionnaire. In particular, CLC sought (1) documents to, from, or mentioning Dr. Ron Jarmin or Dr. Enrique Lamas; and (2) documents containing the phrases "2020 census," "long form," "citizenship question," "questions regarding citizenship," "ACS," "American Community Survey," "citizen voting age population," or "CVPA," dating from January 20, 2017.

CLC requested expedited processing because there is an "urgency to inform the public" about the "actual or alleged government activity" covered by the request. Further, the requested records involve "a matter of widespread and exceptional media interest in which there exist possible questions about the government's integrity that affect public confidence." 28 C.F.R. § 16.5(e)(1)(iv). Indeed, the Census Bureau's decision to include a citizenship question on the 2020 census has gathered enormous media and public interest that affects public confidence in the government.

June 22, 2018

Page 2

On February 9, 2018, your office granted CLC's request for expedited processing of the FOIA request, thereby acknowledging the urgency of responding to the request. While your office noted that the request falls within unusual circumstances under 5 U.S.C. § 552(a)(6)(B)(i)-(iii), it failed to provide CLC with the date on which a determination is expected, as required by the statute. Despite the urgent nature of the FOIA request and the grant of expedited processing on February 9, 2018, the request has yet to be completed.

Resolution of this matter is long overdue. If we do not have a final determination on our request within one week, we will be forced to seek judicial relief. Please do not hesitate to contact me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Adam Miller', with a stylized flourish at the end.

Adam Miller

EXHIBIT 5

Flood, Josh

From: Smith, James M. (OIP) <James.M.Smith@usdoj.gov>
Sent: Friday, July 6, 2018 5:39 PM
To: Flood, Josh
Cc: Miller, Adam; Brinkmann, Vanessa R (OIP); Hibbard, Douglas (OIP); Moshe Pasternak
Subject: RE: Freedom of Information Act Request DOJ-2018-002496 (AG)

Dear Mr. Flood,

Thank you for your response. I understand that you are seeking a date certain on which Campaign Legal Center can expect document production in response to the above-referenced request. As previously noted, we estimated that our search will be complete in approximately one month. Once the search is complete, the processing time will depend considerably on the volume and complexity of any potentially responsive records located pursuant to the search.

That having been said, please be advised that, on average, a mid-sized expedited request requires approximately 8 months to complete. Based on this estimate, your request would be complete by approximately October 1, 2018. Again, please note that this is only an average – the actual processing estimate will be much better informed once we receive the results of the records search.

I hope this information is helpful.

Best,

James Smith

James Matthew Smith
Attorney-Advisor
Office of Information Policy
U.S. Department of Justice
(202) 305-0580

From: Flood, Josh <jflood@BuckleySandler.com>
Sent: Tuesday, July 03, 2018 5:17 PM
To: Smith, James M. (OIP) <jmsmith@jmd.usdoj.gov>
Cc: Miller, Adam <amiller@BuckleySandler.com>; Brinkmann, Vanessa R (OIP) <vbrinkmann@jmd.usdoj.gov>; Hibbard, Douglas (OIP) <dhibbard@jmd.usdoj.gov>; Moshe Pasternak <MPasternak@campaignlegalcenter.org>
Subject: RE: Freedom of Information Act Request DOJ-2018-002496 (AG)

Mr. Smith,

Thank you for the update regarding the Campaign Legal Center's FOIA request (DOJ-2018-002496 (AG)). However, because OAG granted expedited review of this request nearly five months ago, we ask for a specific date on which we can expect production of documents, to encompass both a search and any subsequent review. We cannot agree to any further unspecified delay and are prepared to seek judicial relief if we do not hear from you by next Thursday, July 12th. Please do not hesitate to contact me with any questions.

Thank you,

Josh Flood

Josh Flood
Associate

Buckley Sandler LLP
1250 24th Street NW, Suite 700
Washington, DC 20037
T (202) 349-7930
M (302) 359-5980
jflood@buckleysandler.com
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From: Smith, James M. (OIP) [<mailto:James.M.Smith@usdoj.gov>]
Sent: Friday, June 29, 2018 4:23 PM
To: Flood, Josh <jflood@BuckleySandler.com>; Miller, Adam <amiller@BuckleySandler.com>
Cc: Brinkmann, Vanessa R (OIP) <Vanessa.R.Brinkmann@usdoj.gov>; Hibbard, Douglas (OIP) <Douglas.Hibbard@usdoj.gov>; Moshe Pasternak <MPasternak@campaignlegalcenter.org>
Subject: RE: Freedom of Information Act Request DOJ-2018-002496 (AG)

Dear Mr. Flood and Mr. Miller,

We estimate that our search for this request will be complete in approximately one month. By the end of July, we will be happy to touch base and discuss further.

I hope this information is helpful.

Sincerely,

James

James Matthew Smith
Attorney-Advisor
Office of Information Policy
U.S. Department of Justice
(202) 305-0580

From: Flood, Josh <jflood@BuckleySandler.com>
Sent: Wednesday, June 27, 2018 6:43 PM
To: Smith, James M. (OIP) <jmsmith@jmd.usdoj.gov>; Miller, Adam <amiller@BuckleySandler.com>
Cc: Brinkmann, Vanessa R (OIP) <vbrinkmann@jmd.usdoj.gov>; Hibbard, Douglas (OIP) <dhibbard@jmd.usdoj.gov>
Subject: RE: Freedom of Information Act Request DOJ-2018-002496 (AG)

Dear Mr. Smith,

Thank you for your response. We look forward to hearing from you by Friday.

Best regards,

Josh Flood

Josh Flood

Associate

Buckley Sandler LLP

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Washington, DC 20037

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From: Smith, James M. (OIP) [<mailto:James.M.Smith@usdoj.gov>]

Sent: Wednesday, June 27, 2018 5:55 PM

To: Flood, Josh <jflood@BuckleySandler.com>; Miller, Adam <amiller@BuckleySandler.com>

Cc: Brinkmann, Vanessa R (OIP) <Vanessa.R.Brinkmann@usdoj.gov>; Hibbard, Douglas (OIP) <Douglas.Hibbard@usdoj.gov>

Subject: Freedom of Information Act Request DOJ-2018-002496 (AG)

Dear Mr. Miller and Mr. Flood,

I write concerning FOIA request DOJ-2018-002496 (AG). Please accept my sincere apologies for the delay in response to your letters dated May 18, 2018, and June 22, 2018. Unfortunately, we are facing a significant backlog in our searches, and thus, our search for this request is still pending in our electronic search queue. However, I will check on where your request currently is in our search queue and follow up by the end of the week. In the meantime, please feel free to contact me with any further questions.

Sincerely,

James Smith

James Matthew Smith

Attorney-Advisor

Office of Information Policy

U.S. Department of Justice

(202) 305-0580

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EXHIBIT 6

BUCKLEY SANDLER

Adam Miller
Partner
1250 24th Street NW, Suite 700
Washington, DC 20037
t. 202 349-7958
amiller@buckleysandler.com

VIA FEDEX AND EMAIL

June 22, 2018

Karen McFadden, FOIA Contact
Justice Management Division
Department of Justice
Room 1111 RFK
950 Pennsylvania, Avenue, N.W.
Washington, DC 20530-0001
Email: JMDFOIA@usdoj.gov

Douglas Hibbard, FOIA Public Liaison
Office of Information Policy
U.S. Department of Justice
Suite 11050
1425 New York Avenue, N.W.
Washington, D.C. 20530-0001
DOJ.OIP.FOIA@usdoj.gov

RE: Freedom of Information Act Request by Campaign Legal Center of February 1, 2018, JMD FOIA Tracking Number: 110900

Dear Ms. McFadden and Mr. Hibbard:

Buckley Sandler represents the Campaign Legal Center (“CLC”) in connection with the above referenced Freedom of Information Act request. We write to address the lack of progress in completing the request since your office confirmed that it granted expedited processing during a phone call with Danielle Lang of CLC on March 14, 2018.

On February 1, 2018, CLC submitted a FOIA request to the Office of the Attorney General for records pertaining to a request by Arthur E. Gary, the General Counsel of DOJ’s Justice Management Division, to the Census Bureau to add a citizenship question to the 2020 Census Questionnaire. In particular, CLC sought (1) documents to, from, or mentioning Dr. Ron Jarmin or Dr. Enrique Lamas; and (2) documents containing the phrases “2020 census,” “long form,” “citizenship question,” “questions regarding citizenship,” “ACS,” “American Community Survey,” citizen voting age population,” or “CVPA,” dating from January 20, 2017.

June 22, 2018

Page 2

CLC requested expedited processing because there is an “urgency to inform the public” about the “actual or alleged government activity” covered by the request. Further, the requested records involve “a matter of widespread and exceptional media interest in which there exist possible questions about the government’s integrity that affect public confidence.” 28 C.F.R. § 16.5(e)(1)(iv). Indeed, the Census Bureau’s decision to include a citizenship question on the 2020 census has gathered enormous media and public interest that affects public confidence in the government.

In a phone call with Danielle Lang of CLC on March 14, 2018, your office granted CLC’s request for expedited processing of the FOIA request, thereby acknowledging the urgency of responding to the request. Further, your office assured CLC Program Assistant Moshe Pasternak during phone calls on April 26 and May 26 that it was processing the request and would respond promptly. However, despite the urgent nature of the FOIA request and the grant of expedited processing, the request has yet to be completed.

Resolution of this matter is long overdue. If we do not have a final determination on our request within one week, we will be forced to seek judicial relief. Please do not hesitate to contact me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'AM', with a long horizontal line extending to the right.

Adam Miller