September 26, 2017

By Electronic Mail (usaf.pentagon.saf-aa.mbx.haf-foia-workflow@mail.mil)

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RE: Freedom of Information Act Request

To whom it may concern:

The Campaign Legal Center (“CLC”) submits this request pursuant to the Freedom of Information Act, 5 U.S.C. § 552 et seq., for records pertaining to travel by U.S. Cabinet members.

I. Background

On September 22, 2017, ABC News reported that Secretaries Chao and Mnuchin had traveled on a U.S. Air Force C-37 jet between New York City and Washington, D.C. on August 15, 2017.¹ ABC News estimated that this trip alone cost taxpayers at least $25,000.² This report had been preceded by other reports of Cabinet members breaking precedent by requesting and traveling on non-commercial aircraft at significant taxpayer expense.³

² Id.
The series of revelations attracted significant attention among the broader press and the public. Records likely to be disclosed in response to this request will contribute significantly to the public’s understanding of how decisions regarding taxpayer funded-travel are being used in the federal government, among other matters of public interest.

II. Requested Records

This request encompasses:

- Requests for travel approval submitted to the U.S. Air Force by the offices of Secretary Chao or Secretary Mnuchin, or by any other Cabinet members’ offices or federal agencies;
- U.S. Air Force responses to said travel requests, including approvals and denials;
- Travel authorizations for Cabinet members, including but not limited to authorizations issued by the U.S. Air Force pertaining to the use of military aircraft;
- Advice issued by anyone in the U.S. Air Force pertaining to travel by Cabinet members;
- Invoices and receipts pertaining to payment to the U.S. Air Force for Cabinet members’ air travel;
- Any other communications between federal agencies and the U.S. Air Force regarding Cabinet members’ travel on U.S. Air Force vessels; and
- All documents pertaining to Secretary Chao’s and Secretary Mnuchin’s travel on and around August 15, 2017 between Joint Base Andrews and Teterboro Airport.

This request encompasses both digital and physical records.

The timeframe for this request is from January 20, 2017 to date.

If some portions of the requested records are exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the requested records. If any portion of the requested records is exempt from disclosure, please

provide an index of the withheld materials as required under Vaughn v. Rosen, 484 F.2d 820 (D.C. Cir. 1973), cert. denied, 415 U.S. 977 (1972).

III. Application for Fee Waiver or Limitation of Fees

A. The request is made for non-commercial purposes and will contribute significantly to public understanding of the operations or activities of government.

FOIA provides that the agency shall furnish requested records without or at reduced charge if “disclosure of the information is in the public interest because it 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).

As described above in Part I, the requested materials involve matters of significant public interest. Records likely to be disclosed in response to this request will contribute significantly to the public’s understanding of the Departments’ use of their resources. These details are not already publicly available and the records would provide a more thorough public understanding of the operations of the federal government.

CLC will use records responsive to this request in the creation of widely disseminated materials and analysis that will educate the public about these matters and the operations of the government. CLC anticipates analyzing the materials gathered through this FOIA request to develop reports,8 write blogs,6 and author op-eds.7 CLC’s research and reports are widely disseminated on its blog,8 through its own website,9 through social media platforms like Facebook10 and Twitter,11 and regular emails to its supporters, among other communications outlets.12

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5 See, e.g., Lawrence M. Noble and Brendan M. Fischer, Funding the Presidential Nominating Conventions: How a Trickle of Money Turned Into a Flood, Campaign Legal Center (July 26, 2016), http://www.campaignlegalcenter.org/sites/default/files/Funding%20the%20Presidential%20Nominating%20Conventions%20Report.pdf.
10 https://www.facebook.com/CampaignLegalCenter/
11 https://twitter.com/CampaignLegal
CLC staff have significant knowledge in ethics and government accountability, and news media regularly rely upon CLC’s analysis and expertise. In addition to its own blogs and reports, CLC anticipates analyzing the requested records and disseminating the materials among traditional news outlets.

Requester CLC is a non-profit public interest organization organized under Section 501(c)(3) of the Internal Revenue Code and this request is made for non-commercial purposes.

As such, we request that any applicable fees associated with this request be waived pursuant to 5 U.S.C. § 552(a)(4)(A)(iii). A fee waiver in this instance would fulfill Congress’ intent in amending the 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. CLC qualifies for a fee waiver as a “representative of the news media.”

CLC additionally requests that it not be charged search or review fees for this request because the organization meets the definition of a “representative of the news media” for purposes of the FOIA, since CLC “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)(II)-(III).

As the D.C. Circuit has held, the “representative of the news media” test is focused on the requestor rather than the specific FOIA request. Cause of Action v. F.T.C., 799 F.3d 1108, 1121 (D.C. Cir. 2015). CLC satisfies this test because (as noted in Part III(A)) CLC applies its expertise and editorial skills to turn raw materials into reports, articles, and op-eds that are widely disseminated on its blog, through its own website, through social media platforms and regular emails to its supporters, and through other communications outlets. CLC additionally applies editorial skill to analyze and disseminate materials to other news media outlets, which regularly


cite and rely upon CLC’s work. The D.C. Circuit has held that an requester may
qualify as a news media entity if it “distribute[s] [its] work’ by issuing press releases
to media outlets in order to reach the public indirectly” 799 F.3d. at 1125-26.

Courts have found that other organizations with functionally similar missions and
engaged in similar public education activities qualify as “representatives of the news
media,” even if engaged in litigation or other advocacy beyond educating the public
about the operations of government. See e.g. Cause of Action v. F.T.C., 799 F.3d
1108, 1121-25 (D.C. Cir. 2015) (finding a public interest advocacy organization that
comments to other media outlets about documents it obtains under FOIA 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);
nonprofit public interest group that published a biweekly email newsletter a news
media requester).

“It is critical that the phrase ‘representative of the news media’ be interpreted
broadly if the act is 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.
(D.C. Cir. 1989).

In the event the fee waiver is not granted, I 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.

IV. Application for Expedited Processing

I request that the processing of this request be expedited pursuant to 28 C.F.R. §
16.5(e)(1)(iv).

As described in Part I, the subject of the request involves a matter of exceptional
media interest, and the initial revelations about Secretaries’ travel practices raise
questions about the government’s integrity that can affect public confidence.

I certify that my statements concerning the need for expedited processing are true
and correct to the best of my knowledge and belief.

*   *   *

In order to expedite delivery of these requested documents and in order to reduce
possible fees incurred, I am requesting that these documents be delivered to me
either digitally via email (in PDF format), or on a data disk via the U.S. Postal
Service.

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17. See sources cited supra at n.3.
18. See sources cited supra at n.4.
Please email copies of responsive documents to:

mchrist@campaignlegalcenter.org

Or, please mail copies of responsive documents to:

Maggie Christ
Campaign Legal Center
1411 K St NW, Suite 1400
Washington, D.C. 20005

Should you elect, for any reason, to withhold, redact, or deny the release of any record responsive to this request, I request that you provide me with an explanation for each withholding/redaction, along with pertinent legal citations.

Please confirm the receipt of this request and provide me with an estimate of processing time.

Thank you.

Sincerely,

/s/

Maggie Christ
Researcher/Investigator
Campaign Legal Center
mchrist@campaignlegalcenter.org