



October 25, 2024

Melissa Golden
Lead Paralegal and FOIA Specialist
Office of Legal Counsel
Room 5517, 950 Pennsylvania Avenue, N.W.
Department of Justice
Washington, DC 20530-0001

Re: Request Under the Freedom of Information Act

Dear Ms. Golden,

This is a request for records under the Freedom of Information Act (FOIA). Through this request, the ACLU seeks Justice Department Office of Legal Counsel (OLC) final opinions, letters, memoranda, and manuals (specified below) relating to the President's authority to deploy military and national guard troops within the United States, and the activities in which those personnel may or may not engage.¹

I. Background

As OLC states, its "core function . . . is to provide controlling advice to Executive Branch officials on questions of law that are centrally important to the functioning of the Federal Government."² In the words of one federal appellate court, "executive-branch officials seek OLC's opinion[s] on some of the weightiest matters in our public life."³ These opinions play a

¹ The term "ACLU" refers collectively to the American Civil Liberties Union Foundation and the American Civil Liberties Union. 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, and educates the public about civil rights and civil liberties issues across the country. 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.

² OLC Mem. of July 16, 2010, *Best Practices for OLC Legal Advice and Written Opinions* at 1 ("July 2010 Memo") ([here](#)); Randolph D. Moss, *Executive Branch Legal Interpretation: A Perspective from the Office of Legal Counsel*, 52 Admin. L. Rev. 1303, 1305 (2000) (stating that OLC's views "on the question of the legality of a proposed executive branch action . . . are typically treated as conclusive and binding within the executive branch."); S. Rep. No. 110-528, at 2 ("An opinion issued by OLC is not just a piece of legal advice, such as the advice individuals or corporations might solicit from their lawyers. An OLC opinion binds the entire executive branch, just like the ruling of a court.").

³ *Citizens for Resp. & Ethics in Washington v. DOJ*, 846 F.3d 1235, 1238 (D.C. Cir. 2017).

significant role in how Presidents and other officials exercise their authority.

For decades, OLC has issued guidance on the circumstances in which the President may deploy military or national guard troops within the United States, as well as what the troops may do when so deployed.⁴ Some of OLC’s final opinions in this area are publicly available,⁵ but the records sought here are not.

Releasing the requested records will provide the public with critical insight into how the Executive Branch has interpreted and applied this nation’s foundational tradition and history of separation between the civilian government and the politically neutral military. Release will also provide the public with insight into OLC’s interpretation of the constitutional and statutory scope of the strong presumption against military enforcement of civilian law. The public’s need for this insight, always high, is exceptionally urgent today, as a candidate for the presidency asserts the likelihood of domestic military deployment to suppress protest or enforce immigration laws.⁶

II. Requested Records

The ACLU seeks the following records:

1. OLC Opinion of July 17, 1953, Re: *Power of the President to Use Troops in Aid of Immigration Authorities*.
2. OLC Opinion of July 28, 1967, Re: *Use of Armed Forces to Suppress Civil Disorders in the Washington Metropolitan Area*.

⁴ E.g., OLC Mem. of July 1, 1964, *Use of Marshals, Troops, and Other Federal Personnel for Law Enforcement in Mississippi* ([here](#)); OLC Mem. of Oct. 4, 1967, *Use of Federal Troops to Protect Government Property and Functions at the Pentagon Against Anti-War Demonstrators* ([here](#)); OLC Mem. of April 26, 1968, *Legal Authority for Using Federalized National Guard and Reserve Components of Armed Forces in Suppressing Civil Disorders at the Request of a State* ([here](#)); OLC Op. of Apr. 29, 1971, *Authority to Use Troops to Prevent Interference with Federal Employees by Mayday Demonstrations and Consequent Impairment of Government Functions* ([here](#)); OLC Op. of Feb. 19, 1991, *Military Use of Infrared Radars Technology to Assist Civilian Law Enforcement Agencies* ([here](#)); OLC Op. of May 1998, *Permissibility Under Posse Comitatus Act of Detail of Defense Department Civilian Employee to the National Infrastructure Protection Center* ([here](#)); OLC Mem. of June 8, 2002, *Determination of Enemy Belligerency and Military Detention* ([here](#)); OLC Op. of Jan. 19, 2021, *Military Support for Customs and Border Protection Along the Southern Border Under the Posse Comitatus Act* ([here](#)).

⁵ *Id.*

⁶ See, e.g., Veronica Stracqualursi, *Trump suggests using military against ‘enemy from within’ on Election Day*, CNN (Oct. 14, 2024) ([here](#)); Stephen Groves, *Trump tested the limits on using the military at home. If elected again, he plans to go further*, Associated Press (Oct. 13, 2024) ([here](#)); Stephen Groves, *Trump aims to expand domestic military use if reelected*, Military Times (Oct. 14, 2024) ([here](#)); Charlie Savage et al., *Deploying on U.S. Soil: How Trump Would Use Soldiers Against Riots, Crime and Migrants*, N.Y. Times (Aug. 17, 2024) ([here](#)); Leo Shane III, *Law-makers push Pentagon for clarity on domestic military deployments*, Military Times (Aug. 15, 2024) ([here](#)).

3. OLC Opinion of August 5, 1967, Re: *Legal Requirements for the Use of Federal Troops in Case of Severe Domestic Violence Within Your State.*
4. OLC Opinion of August 10, 1967, Re: *Operational Control of Metropolitan Police Department in the Event of Use of Federal Troops to Suppress Civil Disorder.*
5. OLC Opinion of April 18, 1968, Re: *Whether the Posse Comitatus Act (18 U.S.C. 1385) Prohibits Issuance of Special Police Commissions to Military Personnel for the Purpose of Enabling Them to be Employed in Off-Duty Hours as Deputy Sheriffs, Special Policemen, Security Guards, Bouncers or Merchant Patrolmen.*
6. OLC Opinion of May 11, 1970, Re: *Authority to use troops to protect federal functions, including the safeguarding of foreign embassies in the United States.*
7. OLC Opinion of September 30, 1970, Re: *Legality of Deputizing Military Personnel Assigned to the Department of Transportation.*
8. OLC Opinion of April 28, 1971, Re: *Authority of Police, with Aid of Troops, to Cordon off Pedestrian Access to Various Key Traffic Areas.*
9. OLC Opinion of March 13, 1972, Re: *Use of Federal Forces to Perform the Functions of the Pacific Coast Longshoremen.*
10. OLC Opinion of March 17, 1972, Re: *Legal Justification for the Use of Federal Troops to Act as Longshoremen in the Event of a Renewed Longshoremen's Strike.*
11. OLC Opinion of November 17, 1972, Re: *Use of Federal Troops to Protect Embassies.*
12. OLC Opinion of March 24, 1978, Re: *Restrictions which the Posse Comitatus Act, 18 U.S.C. § 1385, Places on the Use of Military Personnel to Assist the Department of Justice in the Investigation and Prosecution of Frauds Committed by Contractors in the Course of Procurement by the Department of Defense.*
13. OLC Opinion of January 10, 1980, Re: *Use of Federal Military Force in Domestic Terrorism Incidents.*
14. OLC Opinion of February 5, 1980, Re: *Possible Use of the Armed Forces in the Event of Terrorist Activity at the Lake Placid Olympics.*

15. Memorandum for Jo Ann Harris, Assistant Attorney General, Criminal Division, from Walter Dellinger, Assistant Attorney General, Office of Legal Counsel, April 5, 1994, *Use of Military Personnel for Monitoring Electronic Surveillance*.
16. OLC Opinion of May 10, 1994, Re: *Use of Military to Enforce Immigration Laws*.
17. Memorandum for the Attorney General from Patrick F. Philbin, Deputy Assistant Attorney General, Office of Legal Counsel, Nov. 5, 2002, *Department of Defense Assistance in an FBI Domestic Terrorism Investigation*.
18. Letter of Mar. 27, 1978, for Deanne Siemer, Gen. Counsel, Dep't of Defense, from Mary Lawton, Deputy Assistant Attorney General, OLC.
19. Department of Justice Manual, *The Use of Military Force Under Federal Law to Deal with Civil Disorders and Domestic Violence* (July 1980).
20. OLC, *Federal Legal Authorities for Emergency Response Briefing Book*—known alternately as the “Attorney General Emergency Manual.”⁷

A record is responsive to this request if it is substantially encompassed by one of the descriptions above, notwithstanding minor discrepancies in date or title, and regardless of whether it is styled an “opinion,” “memorandum,” “memorandum opinion,” “manual,” or something else.

Please provide responsive electronic records electronically, in their native file format.⁸ If that is not possible, please provide responsive records electronically in a text-searchable, static-image format (PDF), in the best image quality in the agency’s possession. Either way, please provide responsive records in separate, Bates-stamped files.

III. Application for Expedited Processing

The ACLU seeks expedited processing.⁹ This request satisfies the statutory criteria for expedited processing because it seeks records “urgen[tly]” needed by an organization primarily engaged in disseminating information “to inform the public concerning actual or alleged Federal Government activity.”¹⁰

⁷ See Dep’t of Justice Office of Inspector General, *A Review of the Department of Justice’s Response to Protest Activity and Civil Unrest in Washington, D.C. in Late May and Early June 2020* at 14 (July 2024).

⁸ See 5 U.S.C. § 552(a)(3)(B).

⁹ See 5 U.S.C. § 552(a)(6)(E); see also 6 C.F.R. § 5.5(e).

¹⁰ See 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 FOIA.¹¹ Obtaining information about government activity, analyzing it, publishing it, and widely disseminating it to the press and public are critical and substantial components of the ACLU’s work; indeed, they are among its primary activities.¹² The ACLU plans to analyze, publish, and disseminate to the public the information gathered through this request. It does not seek the requested records for commercial use, and it intends to disseminate the information disclosed as a result of this request to the public at no cost.

The ACLU regularly publishes the *ACLU* magazine, which reports on and analyzes civil liberties-related current events. The magazine is disseminated to over 1 million donors. The ACLU also publishes regular updates and alerts via email to millions of subscribers (both ACLU members and non-members). These updates are additionally broadcast to millions of 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 regularly issues press releases to call attention to documents obtained through FOIA requests, as well as other breaking news,¹³ and ACLU attorneys are interviewed frequently

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

¹² See *ACLU v. Dep’t of Justice*, 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”). Courts have found that the ACLU and other organizations with similar missions that engage in information-dissemination activities like the ACLU are “primarily engaged in disseminating information.” See, e.g., *Leadership Conf. on C.R. 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, ACLU, Government Releases New Court Opinions Highlighting Further Abuse of Warrantless FISA Surveillance Program (July 21, 2023) ([here](#)); Press Release, ACLU, New Records Detail DHS Purchase and Use of Vast Quantities of Cell Phone Location Data (July 18, 2022) ([here](#)); Press Release, ACLU, ACLU Files FOIA Request Seeking Records Related to Detained Immigrants’ Ability to Access Counsel (December 17, 2021) ([here](#)); Press Release, ACLU, ACLU Files FOIA Request to Uncover COVID Impact and Cost of Federal Executions (August 6, 2022) ([here](#)); Press Release, ACLU, New Records Detail How the FBI Pressures Police to Keep Use of Shady Phone Surveillance Technology a Secret (June 22, 2023) ([here](#)); Press Release, ACLU, ACLU Announces Major Settlement in Family Separation Lawsuit (October 16, 2023) ([here](#)).

for news stories about documents released through ACLU FOIA requests.¹⁴

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 on which it posts original editorial content reporting on and analyzing civil rights and civil liberties news.¹⁶ The ACLU creates and disseminates original editorial and educational content on civil rights and civil liberties news through multimedia 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 is focused. The ACLU’s website also serves as a clearinghouse for news about ACLU cases, including analysis about case developments and an archive of case-

¹⁴ See, e.g., Corin Faife, *Feds Are Tracking Phone Locations With Data Bought From Brokers*, The Verge (July 18, 2022) ([here](#)); Jessica Votipka, *ACLU Files Suit Against Grand Island School That Ended High School Newspaper*, Journal Star (Mar. 31, 2023) ([here](#)); Charlie Savage, *N.S.A. Gathered Domestic Calling Records It Had No Authority to Collect*, N.Y. Times (June 26, 2019) (quoting ACLU attorney Patrick Toomey) ([here](#)); Rachel Frazin, *ACLU Sues FBI Over Black Activist Surveillance Records*, The Hill (Mar. 21, 2019) (quoting ACLU attorney Nusrat Choudhury) ([here](#)); Cora Currier, *TSA’s Own Files Show Doubtful Science Behind Its Behavioral Screen Program*, The Intercept (Feb. 8, 2017) (quoting ACLU attorney Hugh Handeyside) ([here](#)).

¹⁵ See, e.g., ACLU, *Bad Trip: Debunking the TSA’s ‘Behavior Detection’ Program* (Feb. 2017) ([here](#)); Carl Takei, *ACLU-Obtained Emails Prove that the Federal Bureau of Prisons Covered Up Its Visit to the CIA’s Torture Site*, ACLU: News & Commentary (Nov. 22, 2016) ([here](#)); Brett Max Kaufman, *Details Abound in Drone ‘Playbook’ – Except for the Ones That Really Matter Most*, ACLU: News & Commentary (Aug. 8, 2016) ([here](#)); ACLU, *Leaving Girls Behind: An Analysis of Washington D.C.’s “Empowering Males of Color” Initiative*, ACLU: Research & Analysis (May 5, 2016) ([here](#)); Nathan Freed Wessler, *ACLU-Obtained Documents Reveal Breadth of Secretive Stingray Use in Florida*, ACLU: News & Commentary (Feb. 22, 2015) ([here](#)); Nathan Freed Wessler, *FBI Documents Reveal New Information on Baltimore Surveillance Flights*, ACLU: News & Commentary (Oct. 30, 2015) ([here](#)); Ashley Gorski, *New NSA Documents Shine More Light into Black Box of Executive Order 12333*, ACLU: News & Commentary (Oct. 30, 2014) ([here](#)).

¹⁶ See ACLU: News & Commentary ([here](#)).

¹⁷ See ACLU: Multimedia ([here](#)).

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.¹⁸

The ACLU website includes many features on information obtained through FOIA. 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 its contents relating to government policies on rendition, detention, and interrogation.¹⁹ The ACLU has also published a number of charts and explanatory materials that collect, summarize, and analyze information it has obtained through FOIA.²⁰

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

The records sought are urgently needed to inform the public about actual or alleged government activity.²¹ As noted in Part I, *supra*, the requested records will provide the public with critical insight into how the Executive Branch has interpreted and applied this nation’s foundational tradition and history of separation between the civilian government and the politically neutral military. They will also provide the public with insight into OLC’s interpretation of the constitutional and statutory scope of the strong presumption against military enforcement of civilian law. The public’s need for this insight, always high, is exceptionally urgent today, as a candidate for the presidency asserts the likelihood of domestic military deployment to suppress

¹⁸ See, e.g., *ACLU v. ODNI—FOIA Lawsuit Seeking Records About Government Surveillance Under the USA Freedom Act*, ACLU Case Page (last updated Sept. 14, 2023) ([here](#)); *ACLU v. DOJ—FOIA Lawsuit Seeking Information on Federal Agencies’ Surveillance of Social Media*, ACLU Case Page (last updated Apr. 8, 2024) ([here](#)); *ACLU v. DOJ—FOIA Case for Records Relating to Targeted Killing Law, Policy, and Casualties*, ACLU Case Page (last updated Apr. 23, 2019) ([here](#)); *Executive Order 12,333—FOIA Lawsuit*, ACLU Case Page (last updated Dec. 3, 2018) ([here](#)); *ACLU v. United States*, ACLU Case Page ([here](#)); *ACLU v. DOJ—FOIA Lawsuit Demanding OLC Opinion “Common Commercial Service Agreements”*, ACLU Case Page (last updated Apr. 6, 2016) ([here](#)); *FOIA Request for Justice Department Policy Memos on GPS Location Tracking*, ACLU Case Page (last updated Mar. 12, 2024) ([here](#)); *Florida Stingray FOIA*, ACLU Case Page (last updated Feb. 22, 2015) ([here](#)); Nathan Freed Wessler, *ACLU-Obtained Documents Reveal Breadth of Secretive Stingray Use in Florida*, ACLU: News & Commentary (Feb. 22, 2015) ([here](#)).

¹⁹ *The Torture Database*, ACLU Database ([here](#)); see also *Countering Violent Extremism FOIA Database*, ACLU Database ([here](#)); *TSA Behavior Detection FOIA Database*, ACLU Database ([here](#)); *Targeted Killing FOIA Database*, ACLU Database ([here](#)).

²⁰ *Index of Bush-Era OLC Memoranda Relating to Interrogation, Detention, Rendition and/or Surveillance*, ACLU (Mar. 5, 2009) ([here](#)); *Summary of FISA Amendments Act FOIA Documents Released on November 29, 2010*, ACLU (Nov. 29, 2010) ([here](#)); *Statistics on NSL’s Produced by Department of Defense*, ACLU ([here](#)).

²¹ See 5 U.S.C. § 552(a)(6)(E)(v)(II); see also 6 C.F.R. § 5.5(e)(1)(ii).

protest or enforce immigration laws.²²

IV. Application for Waiver or Limitation of Fees

The ACLU seeks a waiver of document search, review, and duplication fees because disclosing the requested records is in the public interest, “likely to contribute significantly to public understanding of the operations or activities of the government,” and “not primarily in the commercial interest of” the ACLU.²³

Additionally, the ACLU seeks 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.²⁴

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.

This request seeks OLC’s opinions and other final records concerning the permissible and impermissible deployment and activities of military troops within the United States. These records are deemed binding on the Executive Branch.²⁵ Accordingly, there can be no question that the records’ release would contribute significantly to public understanding of the operations or activities of the government.

As stated above, any information disclosed by the ACLU as a result of this request will be available to the public at no cost. Disclosing the requested records is not “primarily in the commercial interest” of the ACLU; nor does the ACLU intend to put the requested records to “commercial use.”²⁶ Thus, granting a fee waiver would be consistent with Congress’s intent. *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 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

²² *See supra*, n.6.

²³ 5 U.S.C. § 552(a)(4)(A)(iii); *see also* 6 C.F.R. § 5.11(k)(1).

²⁴ 5 U.S.C. § 552(a)(4)(A)(ii)(II).

²⁵ *See supra*, n.2.

²⁶ 5 U.S.C. § 552(a)(4)(A)(iii); *id.* §§ 552(a)(4)(A)(ii)(II).

work to an audience.” 5 U.S.C. § 552(a)(4)(A)(ii)(III); 6 C.F.R. § 5.11(b)(6).²⁷ Accordingly, fees associated with responding to FOIA requests are regularly waived for the ACLU.²⁸

Courts have likewise 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.” *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. Dep’t of Justice*, 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).²⁹

²⁷ *Nat’l Sec. Archive v. Dep’t of Defense*, 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. Dep’t of Defense*, 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. Dep’t of Justice*, 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”).

²⁸ For example, in June 2018, the U.S. Citizenship and Immigration Services granted a fee-waiver request regarding a FOIA request for documents relating to the use of social media surveillance. 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 June 2017, the Department of Defense granted a fee-waiver request regarding a FOIA request for records pertaining to the authorities approved by President Trump in March 2017 which allowed U.S. involvement in Somalia. In June 2017, the Department of Defense, the CIA, and the Office of Inspector General granted fee-waiver requests regarding a FOIA request for records pertaining to U.S. involvement in the torture of detainees in prisons in Yemen, Eritrea, and aboard Yemeni or Emirati naval vessels. 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 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 June 2016, the Office of the Director of National Intelligence granted a fee-waiver request regarding a FOIA request related to policies and communications with social media companies’ removal of “extremist” content. In May 2016, the FBI granted a fee-waiver request regarding a FOIA request issued to the Department of Justice for documents related to Countering Violent Extremism Programs.

²⁹ 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 and 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 Conf. on CR*, 404 F. Supp. 2d at 260; *Judicial Watch, Inc.*, 133 F. Supp. 2d at 53–54.

As stated above, the ACLU does not seek the requested records for commercial use.

* * *

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

Charlie Hogle
American Civil Liberties Union
125 Broad Street, 18th Floor
New York, New York 10004
charlie.hogle@aclu.org

If you deny this request in whole or in part, please justify all withholdings by reference to specific FOIA exemptions and release all segregable portions of otherwise exempt material. The ACLU reserves the right to appeal any responses to this Request.

The ACLU anticipates your determination regarding expedited processing within 10 days.³⁰ 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).

Sincerely,

/s/Charlie Hogle

Charlie Hogle
Hina Shamsi
AMERICAN CIVIL LIBERTIES UNION FOUNDATION

³⁰ *See* 5 U.S.C. § 552(a)(6)(E)(ii); 6 C.F.R. § 5.5(e)(4).