

Exhibit A

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

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UNITED TO PROTECT DEMOCRACY et al.)
)
Plaintiffs,)
v.)
	Civil No. 17-02016 (RC))
)
PRESIDENTIAL ADVISORY COMMISSION ON ELECTION INTEGRITY et al.)
)
)
Defendants.)
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DECLARATION OF IAN BASSIN

Laurence M. Schwartztol
(*Pro hac vice* pending)
Justin Florence (D.C. Bar #988953)
THE PROTECT DEMOCRACY PROJECT
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Danielle Conley (D.C. Bar #503345)
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Jason Hirsch (*Pro hac vice* forthcoming)
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DECLARATION OF IAN BASSIN

I, Ian Bassin, declare as follows:

1. I am the Executive Director of United to Protect Democracy and the Protect Democracy Project, Inc. (together, “Protect Democracy”). Protect Democracy’s mission is to prevent our democracy from declining into a more authoritarian form of government. Consistent with that mission, Protect Democracy seeks to prevent those in power from depriving Americans of a free, fair, and fully-informed opportunity to participate in effective democratic governance.
2. United to Protect Democracy is a 501(c)(4) non-profit organization focusing on advocacy efforts to confront threats to our democracy. United to Protect Democracy is incorporated under the laws of the District of Columbia and located at 2020 Pennsylvania Avenue, NW, #163, Washington, D.C. 20006.
3. The Protect Democracy Project, Inc., is a 501(c)(3) non-profit organization that focuses on research and public education, as well as litigation, to confront threats to our democracy. The Protect Democracy Project is incorporated under the laws of the District of Columbia and located at 2020 Pennsylvania Avenue, NW, #163, Washington, D.C. 20006.
4. Protect Democracy was established in December 2016. It seeks to protect the longstanding institutional norms and procedures that reinforce democratic governance, particularly within the Executive Branch. Many of Protect Democracy’s staff members have experience serving in the federal Executive Branch. We often draw on that experience to identify legal and institutional norms that act as “guardrails” against less democratic forms of governance and to monitor the operation of government to ensure

that those longstanding guardrails constrain unlawful or norm-violating actions. *See* Ex. A.

5. As part of its mission, Protect Democracy regularly participates in statutorily created processes that mandate government transparency. It does so in order to analyze and publish information received through those channels and, where appropriate, to incorporate that information into broader advocacy campaigns meant to advance its organizational mission. Since publicly launching in February 2017, the Protect Democracy Project has submitted over 300 requests under the Freedom of Information Act (“FOIA”) and has filed 11 lawsuits to enforce FOIA requests.
6. Protect Democracy has also sought to use legal tools to ensure that those participating in the electoral process do not face unlawful barriers. For example, in July 2017, United to Protect Democracy filed litigation in federal district court on behalf of individuals whose private, non-newsworthy emails were hacked and published in the lead-up to the 2016 election. *See* Ex. B.
7. To advance its mission, Protect Democracy has focused special attention on the President’s Advisory Commission on Election Integrity (“the Commission”) since its establishment by President Trump. Monitoring, commenting on, and advocating in response to the Commission represents a major priority for Protect Democracy, for two reasons. First, several commissioners have long records championing policies designed to suppress participation by eligible voters, and we want to ensure that the Commission does not become a vehicle for advancing those policies. Second, the Commission arose in the context of a false narrative offered by President Trump and some of his allies – including at least one member of the Commission – asserting that millions of ineligible

voters participated in the 2016 election. Intentional propagation of false information by the federal government distorts public discourse in a way that threatens democratic governance.

8. To effectively monitor and analyze the Commission's activities, the Protect Democracy Project has submitted three rounds of FOIA requests to various federal agencies. We submitted those requests in February 2017, May 2017, and July 2017. *See* Ex. C. The Protect Democracy Project is now engaged in litigation in federal district court to enforce some of those requests. *See Brennan Ctr. for Justice and Protect Democracy Project v. U.S. Dep't of Justice et. al.*, No. 17-cv-6335 (S.D.N.Y. filed Aug. 21, 2017).
9. Protect Democracy has also engaged in public education and advocacy related to the Commission's efforts to collect nationwide voter information. On July 3, 2015, Protect Democracy sent a letter to Office of Management and Budget ("OMB") Director Mick Mulvaney seeking OMB review of the Commission's June 28 request to state election officials seeking voter data. *See* Ex. D. Two days later, Protect Democracy sent letters to Attorneys General and Secretaries of State around the country alerting them to the legal deficiencies in the June 28 request. *See* Ex. E (providing examples of substantially identical letters sent to officials in all 50 states and District of Columbia). Additionally, Protect Democracy published an analysis on a prominent legal blog urging state officials to consider the Commission's violations of the Paperwork Reduction Act in determining whether to submit responsive data. *See* Ex. F. We also addressed the issue on our website and Twitter feed. *See* Ex. G.
10. Because the Commission issued its June 28 data request without observing the procedures mandated by the Paperwork Reduction Act, Protect Democracy did not have

the opportunity to review the information that the Commission would have been required to disclose under the statute, nor did Protect Democracy have an opportunity to submit comments in the manner contemplated by the statute. In the future, if the Commission engages in the process required by the statute, Protect Democracy will carefully review and analyze any information the Commission discloses through that process. We would also anticipate publicizing the information disclosed by the Commission, publishing our analysis of that information in an effort to educate the public, submitting comments to the Commission and OMB through the procedures prescribed by statute, and engaging in other advocacy as appropriate to advance Protect Democracy's mission in light of the information provided by the Commission.

Under penalty of perjury, I declare that the foregoing is true and correct to the best of my knowledge and belief.



Ian Bassin
Protect Democracy Executive Director
Executed this 4th day of October, 2017

EXHIBIT A

About

What is Protect Democracy?

Protect Democracy is a nonpartisan nonprofit with an urgent mission: to prevent our democracy from declining into a more authoritarian form of government. We do this by holding the President and the Executive Branch accountable to the laws and longstanding practices that have protected our democracy through both Democratic and Republican Administrations. We have seen an unprecedented tide of authoritarian-style politics sweep the country that is fundamentally at odds with the Bill of Rights, the constitutional limitations on the role of the President, and the laws and unwritten norms that prevent overreach and abuse of power. The only limits to prevent a slide away from our democratic traditions will be those that are imposed by the Courts, Congress, and the American people.

Who Are We?

Protect Democracy was conceived by a group of former White House and Administration lawyers and experienced constitutional litigators, all with a deep understanding of how the federal government works. As we were the ones tasked with implementing and enforcing the norms that have constrained presidential power for decades, we know what those guardrails are and when those in power may be tempted to violate them. As we defended past presidents against legitimate oversight and illegitimate attacks, we also know how to leverage tools outside government to prevent the exploitation of power within it. One thing that we know about those tools, however, is they require an engaged public—they require all of us to unite to make them effective.

What Does Protect Democracy Do?

We monitor, investigate, report on, organize and litigate against any action taken by the Executive Branch that could erode the rules, practices and freedoms that underpin our ability as a self-governing people to hold our leaders accountable. In short, we unite with Americans from all backgrounds to use every tool at our disposal to protect our democracy.

The Protect Democracy Project is a 501(c)(3), United to Protect Democracy^ is a 501(c)(4). [Learn more about the difference.](https://protectdemocracy.org/whats-the-difference/) (<https://protectdemocracy.org/whats-the-difference/>)*

Meet the team

Ian Bassin

Board Member and Executive Director

Ian served as Associate White House Counsel to President Obama from 2009–2011. In addition to counseling the President and senior White House staff on administrative and constitutional law, his responsibilities included ensuring that White House and executive branch officials complied with the laws, rules and norms that protect the fundamentally democratic nature of our government. He received his J.D. from Yale Law School, where he was an Editor of the Yale Law Journal and President of the American Constitution Society. *^

Justin Florence

Board Member and Legal Director

Justin most recently served as counsel in Ropes & Gray's business & securities litigation practice group, where his practice focused on appellate and Supreme Court matters. He has represented clients in the Supreme Court and federal courts of appeals, as well as at the trial level. He has previously served in the Office of the White House Counsel as Special Assistant to the President and Associate Counsel to the President. Justin also worked for Senator Sheldon Whitehouse as Senior Counsel on the staff of the Senate Judiciary Committee. ^

Ben Berwick

Counsel

Before joining Protect Democracy, he worked for 6.5 years in the U.S. Department of Justice (DOJ) – spending most of the time as a Trial Attorney with the Civil Division, Federal Programs Branch. In that capacity, Ben defended against challenges to federal statutes and actions of the Executive Branch. He litigated cases involving a variety of statutes and agencies, including as the lead attorney in cases challenging the Department of Education's and DOJ's interpretation of Title IX as prohibiting discrimination against transgender students.

Allison F. Murphy

Counsel

Allison has spent more than a decade in public service focused on investigative and strategic legal efforts, including at the White House, a federal agency, the Senate, and House of Representatives. Most recently, Allison led complex market manipulation and fraud investigations in the energy markets at the Federal Energy Regulatory Commission. In 2015, she served in the White House Counsel's Office where she advised on a range of matters within an economic portfolio.

Larry Schwartzol

Counsel

Before joining Protect Democracy, Larry was Executive Director of the Criminal Justice Policy Program at Harvard Law School, a research and advocacy center focused on criminal justice reform. Larry spent nearly eight years as an attorney with the ACLU, where he litigated cases involving race discrimination, economic justice, police practices, educational equity, and a wide array of national security issues. Before that, Larry was a Liman Fellow at the Brennan Center for Justice and a law clerk to Judge Harry T. Edwards U.S. Court of Appeals for the D.C. Circuit.

Anne Tindall

Counsel

Anne most recently served as Assistant General Counsel for Litigation and Oversight at the United States Consumer Financial Protection Bureau where, for the last four years, she has led the oversight team at the agency created by President Obama and Elizabeth Warren in the fallout of the financial crisis to protect American families and consumers from unfair financial practices.

Jesse Lee

Communications Director

Jesse most recently was Special Assistant to President Obama and Director of Rapid Response in the White House, and served in the White House for all eight years of the Obama Administration.

Beau Wright

Director of Operations

Beau previously served in President Obama's White House for 5.5 years, most recently as Senior Deputy Director of Operations and Director for Finance.

Cameron Bills

Paralegal

Cameron recently graduated from Columbia University with a background in education and criminal justice.

Sonya Petri

Paralegal

Sonya has over a decade of experience working in criminal defense and justice policy, most recently as a paralegal with the Federal Public Defender Office in Boston. She has contributed to local, national, and international research projects with the Harvard Kennedy School and earned her graduate degree from the London School of Economics.

Jeff Berman

Board Member

Jeff is currently President of Whalerock Industries, a media and technology company in Los Angeles. He previously served as General Manager for Digital Media at the National Football League and before that held a series of roles at MySpace, culminating as President of Sales and Marketing. From 2001 to 2005, he served as Chief Counsel to U.S. Senator Chuck Schumer. Jeff has also served as a public defender in the District of Columbia and as an Adjunct Professor at the Georgetown University Law Center. He holds a J.D. from Yale Law School and a B.A. from Connecticut College. ^

Jerry Hauser

Board Member

Jerry is the founding Chief Executive Officer of The Management Action Center. He was previously at McKinsey & Company, and has played leadership roles in a number of nonprofits. At Teach For America, he served as the second-in-command for seven years. He also served as the CEO of the Advocacy Institute. Before graduating from Yale Law School, where he was

active in legal clinics and a senior editor of the Yale Law Journal, Jerry worked as a high school math and history teacher in Compton, California. He is the coauthor of the book *Managing to Change the World*. ^

Emily Loeb

Board Member

Emily helped found Protect Democracy, and serves full time as Special Counsel at the law firm Jenner & Block. She brings an extensive background in federal oversight and internal investigations. Previously, she served as an Associate Counsel in the Office of the White House Counsel, where she advised senior White House and Executive Branch Agency officials on responses to congressional and other investigations, risk management issues, and high priority litigation. Before the White House, Emily served in several senior roles in the Civil Rights Division of the U.S. Department of Justice. *^

Cecilia Muñoz

Board Member

Cecilia is currently Vice President for Policy and Technology at New America, a Washington-based think tank. She served as Assistant to the President and Director of the Domestic Policy Council under President Obama, and earlier as Director of Intergovernmental Affairs where she oversaw the Obama Administration's relationships with state and local governments. Before joining the Obama Administration, Cecilia spent 20 years at the National Council of La Raza (NCLR), the nation's largest Latino civil rights organization. In June 2000, she was awarded a MacArthur Foundation fellowship in recognition of her work on immigration and civil rights. She also serves on the Board of the Kresge Foundation and the US Programs Board of the Open Society Foundations. *

Sabeel Rahman

Board Member

Sabeel teaches administrative law and constitutional law at Brooklyn Law School. His research focuses on questions of economic inequality, economic power, and democratic governance. His first book, *Democracy Against Domination* (Oxford University Press, 2017) examines these issues in context of the financial regulation debate. In addition to his scholarly work, Sabeel served as a

Special Advisor in New York City Hall in 2014–15, advising on economic development strategy and policy, and as the Design Director for the Gettysburg Project on Civic Engagement. *

Ricki Seidman

Board Member

Ricki is senior principal at TSD Communications, counseling corporate and non-profit clients on a wide range of communications and general strategy matters. A veteran of public service, she held several senior White House positions during the Clinton Administration, also serving as Deputy Associate Attorney General in the Department of Justice. In 2009, she assisted the White House in the confirmation of President Obama's first nominee to the Supreme Court, Sonia Sotomayor. Over the course of her career, Ricki also worked for the late Senator Edward Kennedy and was Executive Director of Rock the Vote. *

Help Protect Democracy

We're in this together.

History has shown that the best way to protect democracy is by standing united in its defense. Your contribution will help us to scale up our efforts to educate, advocate, organize, and litigate on behalf of the values we all hold dear.

[Donate](#)

Be an informed American.

An engaged and informed public is at the heart of American democracy. Sign up to receive updates that will keep us all informed about the threats we face and how we can fight to protect our democracy together.

Email Address

This is a joint website of United to Protect Democracy and the Protect Democracy Project. [Learn More](#)

EXHIBIT B

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

)	
ROY COCKRUM, SCOTT COMER, and)	
ERIC SCHOENBERG, c/o United to Protect)	
Democracy, 2020 Pennsylvania Ave. NW,)	
#163, Washington, DC 20006,)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No. 1:17-cv-1370
)	
DONALD J. TRUMP FOR PRESIDENT,)	
INC., 725 Fifth Ave., New York, NY 10022;)	
and ROGER STONE, 2524 Bayview Dr.,)	
Fort Lauderdale, FL 33305,)	
)	
Defendants.)	
)	

COMPLAINT

INTRODUCTION AND SUMMARY

1. Plaintiffs bring this suit to recover for injuries that they suffered when their stolen private information was published to the entire world during the 2016 presidential campaign.

2. Plaintiffs are all private American citizens. Until last year, Plaintiffs were unknown to the general American public. At the time that their private information was published, none was a public official or public figure. None was a candidate for public office. None was a high-ranking campaign official or close personal advisor of a presidential candidate. None expected that his private information would be shared with the world.

3. Roy Cockrum is a former Episcopal monk. He left the brotherhood in 2007 to care for his ailing parents. In 2014, he won the Tennessee Powerball lottery and decided to give away the bulk of his winnings. In 2016, his belief in maintaining an open and inclusive

society led him to donate to multiple candidates for public office and state Democratic parties, as well as to the Democratic National Committee (“DNC”).

4. Eric Schoenberg is a successful businessman who served as a Foreign Service Officer during the Reagan Administration. At different times, he has been registered to vote as a Republican and as a Democrat. In the 2016 election cycle, he contributed to the DNC.

5. Scott Comer is a former mid-level staffer for the DNC. A childhood trip to Washington left him in awe of American democracy in action and led him to work for political candidates and causes he believed in. In 2011, he came out as gay to his mother and close friends. But he did not tell his grandparents, because he knew that they viewed homosexuality as inconsistent with their deeply held religious beliefs. For the next five years, he kept his sexual orientation from his grandparents so as not to upset them or disrupt his relationship with them, which he cherished.

6. Defendants are Donald J. Trump for President, Inc. (the “Trump Campaign”) and Roger Stone, an individual who was at various times employed by the Trump Campaign, or otherwise acting as its agent, but who was at all relevant times engaged in supporting its objectives.

7. On one or more occasions before the summer of 2016, computer hackers working on behalf of the Russian government hacked into the email systems of the DNC in the District of Columbia and obtained voluminous amounts of data, including emails and other documents sent to and from thousands of individuals. Some of those individuals were staff members of the DNC; some were donors; and some were other supporters, members of the media, or other private citizens.

8. Among the materials obtained by the hackers were Mr. Comer's emails; Mr. Schoenberg's and his wife's social security numbers, dates of birth, home address, phone number, and banking relationships; and Mr. Cockrum's social security number, date of birth, address, and phone number.

9. As the United States government has reported, the Russian government sought to use the information it had stolen from the DNC as part of a deliberate campaign to interfere in the U.S. election and tilt its outcome in favor of Donald Trump.

10. On information and belief, to increase the utility of its hacking activity, Russia typically consults domestic political actors who act as Russia's partners to decide which extracted information to publish, how to time the release of the stolen information, and how to disseminate it in a way to maximize the political impact.

11. Multiple agents of the Trump Campaign have long-standing financial connections and relationships with Russian individuals and entities, including several close to the Russian President and government. On information and belief, trading on those connections and seeking to maximize the impact of the hacked materials, those in control of the hacked materials consulted with Defendants to better understand how the hacked materials could be used to greatest political effect.

12. Agents of the Trump Campaign met with Russian officials on numerous occasions during the spring and summer of 2016. On at least one occasion, senior Trump Campaign officials met with a Kremlin-connected lawyer, after being informed in an email that the meeting concerned information gathered as part of a Russian government effort to aid the Trump Campaign. According to email correspondence regarding the meeting made public on Donald Trump Jr.'s Twitter account, rather than avoiding coordination with a foreign

government that was attempting to interfere in a U.S. election, Trump Jr. responded over email: “If it’s what you say I love it especially later in the summer.”

13. On information and belief, and consistent with Defendants’ apparent willingness to coordinate with Russian operatives to benefit their campaign, Defendants entered into an agreement with other parties, including agents of Russia and WikiLeaks, to have information stolen from the DNC publicly disseminated in a strategic way that would benefit the campaign to elect Mr. Trump as President (the “conspiracy”).

14. On information and belief, Defendants, in turn, provided benefits to the Russian government by making certain concessions important to Russia’s national interests, including intervening in the drafting of the Republican Party platform to protect Russian interests.

15. Defendants have provided other benefits to Russia, including a shift in Republican Party and U.S. priorities regarding NATO, efforts to lift or weaken U.S. sanctions on Russia, and a generally positive communications posture toward Russia to improve its image among Americans.

16. On information and belief, in furtherance of this conspiracy, Defendants and those they conspired with arranged for the hacked information to be provided to WikiLeaks, which published it on July 22, 2016 and thereafter. In particular, the DNC finance team’s emails were singled out for publication, which had the direct and foreseeable consequence of intimidating and deterring existing donors from further supporting the DNC’s financial efforts. This effort also had the direct and foreseeable consequence of intimidating and deterring existing or potential donors from communicating with Mr. Comer or others at the DNC to support the Democratic Party’s candidate for President; and it had the direct and foreseeable consequence of intimidating and deterring Mr. Comer from using email to advocate the election of his preferred candidate for

the Presidency, for fear that his communications would be publicly disclosed. As a result of the conspiracy, all of the Plaintiffs suffered substantial harm—set forth in detail below—on account of their support for a particular candidate for President.

17. As a result of the publication of hacked information pursuant to the conspiracy, Mr. Cockrum's social security number, address, and phone number were published to the world and remain permanently available to anyone with access to the Internet. As a result, Mr. Cockrum has seen multiple strangers attempt to obtain credit in his name, and at least one of these attempts was successful. Each new attempt requires a new round of extensive communications with creditors and credit agencies in an effort to prevent substantial financial loss. These circumstances have led to significant distress and anxiety and will require lifelong vigilance and expense. In addition, Mr. Cockrum has been chilled in the extent to which he supports and contributes to political campaigns.

18. Mr. Schoenberg's and his wife's social security numbers, address, phone number, and banking relationships were published to the world and remain permanently available to anyone with access to the Internet. As a result, Mr. Schoenberg's identity was stolen and his information used in fraudulent attempts to get credit cards. In one instance, two new credit cards arrived together at his home—one in his wife's name, and the other in the name of an unknown woman. To this day, Mr. Schoenberg remains concerned that his and his family's credit and financial information are permanently in jeopardy. These circumstances led to significant distress and anxiety and will require lifelong vigilance and expense.

19. Thousands of Mr. Comer's emails were published to the world and remain available to anyone with access to the Internet. These emails included information about conflicts with coworkers and collaborators, health information, and details from which his

grandparents deduced his sexual orientation. These revelations strained relationships with family and friends and ended some of Mr. Comer's relationships altogether. Because his emails were disclosed, Mr. Comer received phone calls threatening violence, some calling him "faggot." These circumstances led to severe emotional distress, anxiety, depression, and associated costs for medical care. In addition, Mr. Comer has felt intimidated regarding how he communicates with others in his advocacy for candidates for federal office out of a fear that his communications will be publicly disclosed.

20. None of the private information about Plaintiffs described above that was disclosed was newsworthy or involved any public policy matter at issue in the campaign.

21. The publication of Plaintiffs' private information caused each of them concrete and tangible injuries.

22. On information and belief, ever since and in furtherance of the conspiracy, Defendants and their coconspirators have taken efforts to hide evidence of their coordination. Associates of the Defendants have repeatedly shifted their explanations of the reasons and process for revising a proposed amendment to the Republican Party platform in a Russia-friendly direction. Agents of the Trump Campaign, including close advisor and then-Senator Jeff Sessions and Mr. Trump's son-in-law Jared Kushner, have failed to disclose on security clearance forms and in sworn testimony a series of meetings they held with top Russian officials during the campaign and the transition. Trump Jr. has provided inconsistent accounts of his meeting with a Russian government-linked attorney, whom he agreed to meet on the understanding that she would cooperate with his efforts to damage the Clinton campaign, even though he was informed (according to emails released on his Twitter account) that the meeting

was “part of Russia and its government’s support for Mr. Trump.” Campaign advisor Michael Flynn failed to properly report contractual arrangements and interactions with Russian entities.

23. On information and belief, in furtherance of the conspiracy, Defendants have publicly denied or dismissed Russia’s role in the hacking, seeking to absolve Russia of any accountability for its actions to harm Plaintiffs and interfere in the U.S. election. Mr. Trump himself, who benefitted the most from this conspiracy, has repeatedly denied personal relationships with Russia that he had previously admitted, and has sought to discredit reporting on the underlying events discussed in this Complaint and to block attempts to investigate those events, including by firing the lead investigator looking into the affair, former FBI Director James Comey. On July 7, 2017, President Trump met with President Putin and reportedly accepted Mr. Putin’s assertion that Russia did not interfere in the U.S. election and agreed with Mr. Putin that any remaining focus on allegations of Russian meddling in the 2016 U.S. election was a hindrance and that the two countries should move on from the issue.

24. Defendants’ conduct violated Plaintiffs’ privacy rights under D.C. law. Defendants aided and assisted each other in violation of these rights and conspired with one another and with others known and unknown to commit this violation. While one of the objects of the conspiracy was to harm the Democratic Party’s candidate for President of the United States and improve the Trump Campaign’s likelihood of success, the direct victims included Mr. Cockrum, Mr. Schoenberg, and Mr. Comer.

25. In addition, Defendants’ conspiratorial conduct intimidated Plaintiffs and others in a manner that could prevent them “from giving [their] support or advocacy in a legal manner, toward or in favor of the election of [a] lawfully qualified person as an elector for President,” and

injured Plaintiffs' person and property "on account of such support or advocacy," all in violation of 42 U.S.C. § 1985(3).

26. Plaintiffs bring this suit to seek accountability and redress for the harms that they suffered from the release of their personal information, and to help prevent such harms from ever befalling anyone else.

JURISDICTION AND VENUE

27. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1331.

28. This Court also has jurisdiction over this matter pursuant to 28 U.S.C. § 1332. Plaintiffs and Defendants are citizens of different states. There is complete diversity between the parties and the amount in controversy exceeds \$75,000.

29. This Court also has supplemental jurisdiction over Plaintiffs' state-law claims pursuant to 28 U.S.C. § 1367.

30. Venue in this case is proper under 28 U.S.C. § 1391. The DNC is headquartered in the District. Mr. Comer was employed by the DNC, and all of the published emails were sent to or from and resided on the DNC's servers, were maintained by the DNC, and were hacked from those servers. Moreover, Plaintiffs' private information was published across the world, including in this District. Plaintiffs suffered injury in this District.

PARTIES

31. Mr. Cockrum contributed to the DNC during the 2016 campaign. Mr. Cockrum joined The Society of St. John the Evangelist, an Episcopal Monastery, after the terrorist attacks of September 11, 2001. He left the Monastery several years later to care for his elderly parents in Tennessee, where he won the Tennessee Powerball lottery and began a new career as a philanthropist. He is a resident of the State of Tennessee.

32. Mr. Schoenberg contributed to the DNC during the 2016 campaign. Mr. Schoenberg has served as a Foreign Service Officer, held executive positions with an investment-banking firm, and is now Chairman of a technology services firm. He is a resident of the State of New Jersey.

33. Mr. Comer is a former employee of the DNC, where he worked as the Finance Office's Chief of Staff between April 2015 and October 2016. Mr. Comer grew up in Tennessee, attended college at George Washington University and the University of Maryland, and has been working for Democratic candidates and advocacy organizations ever since in fulfillment of career goals formulated when his father took him to visit the nation's capital as an 11-year-old boy. He is a resident of the State of Maryland.

34. Defendant Donald J. Trump for President, Inc. (the "Trump Campaign"), is a Virginia corporation with headquarters in New York, New York. Its purpose during the times relevant to this complaint was to elect Donald J. Trump to the presidency. During the times relevant to this complaint, the chairman of the Trump Campaign was Paul Manafort, previously a lobbyist for Russian-linked entities. Michael Flynn and Carter Page served as foreign policy advisors to the campaign during the relevant period. Jeff Sessions was the chair of the campaign's national security advisory committee. Jared Kushner is Mr. Trump's son-in-law and was a close advisor to Mr. Trump during the campaign. Donald Trump Jr. is Mr. Trump's son and was also an agent of the campaign.

35. Defendant Roger Stone is a lobbyist and political strategist who has referred to himself proudly as "a brand name when it comes to dirty tricks." In 1979, Stone met Trump through the lawyer Roy Cohn, who mentored both Stone and Trump. Stone and Trump have been friends and business associates ever since. Stone began urging Trump to run for President

in 1987 and helped lead Trump's presidential campaign on the Reform Party ticket in 1999. He again urged Trump to run for President in 2016 and was intimately involved as an advisor to Trump and the Trump Campaign during that election campaign. He ostensibly left official employment with the Trump Campaign in August 2015. Stone continued to play an important role in the Trump Campaign as agent and advisor even after his alleged departure, and he remained in regular contact with Trump throughout the campaign. In early 2016, Stone helped arrange for his longtime friend and former business partner Manafort to become chairman of the Trump Campaign. He has consulted on political strategy around the world, including in Ukraine. *The New York Times* has reported that "His ties to Russia are now under scrutiny by the F.B.I." Stone is a resident of the State of Florida.

FACTUAL ALLEGATIONS

I. Plaintiffs' Private Information Was Shared With the World, Causing Plaintiffs Substantial Harms

A. Emails Containing Plaintiffs' Private Information Were Disseminated on the Internet

36. On July 22, 2016, WikiLeaks posted thousands of private emails on the Internet.

These emails were made available to anybody in the world with access to a web browser.

According to the WikiLeaks website:

Starting on Friday 22 July 2016 at 10:30am EDT, WikiLeaks released over 2 publications 44,053 emails and 17,761 attachments from the top of the US Democratic National Committee -- part one of our new Hillary Leaks series. The leaks come from the accounts of seven key figures in the DNC: Communications Director Luis Miranda (10520 emails), National Finance Director Jordon [sic] Kaplan (3799 emails), Finance Chief of Staff Scott Comer (3095 emails), Finance Director of Data & Strategic Initiatives Daniel Parrish (1742 emails), Finance Director Allen Zachary (1611 emails), Senior Advisor Andrew Wright (938 emails) and Northern California Finance Director Robert (Erik) Stowe (751 emails). The emails cover the period from January last year until 25 May this year.

37. Emails containing private information belonging to each of the Plaintiffs—and many others—were included in the information published by WikiLeaks beginning on July 22, 2016. These private details revealed personally identifying information, such as social security numbers, dates of birth, home addresses, cell phone numbers, and bank account details; personal health information ranging from doctor’s appointments to life-threatening illnesses; information about conflicts with co-workers, collaborators, friends, and family members; their sexual orientation and/or information about romantic relationships; and myriad private details about their day-to-day experiences that were never intended for publication to the Internet for the whole world to see.

38. The emails containing Plaintiffs’ private information remain on the Internet to this day. They are publicly searchable through the WikiLeaks site, allowing anybody to type an individual’s name in order to browse emails to, from, or about that person. Plaintiffs’ social security numbers, and those of dozens of other potential identity theft victims, are available to the world.

39. Plaintiffs are illustrative of dozens of American citizens whose lives were directly affected when this information was hacked and published on the Internet. Because so many of the published emails came from the DNC’s finance team, countless donors and prospective donors to the DNC had their private information, financial information, and communications published.

40. Before their publication beginning on July 22, 2016, none of the Plaintiffs’ private emails had been posted on the Internet or made available to the public. Before the publication beginning on July 22, 2016, none of the Plaintiffs’ social security numbers had been posted on the Internet.

41. The published emails were not curated or redacted to remove private facts about Plaintiffs.

42. The published emails contained detailed private factual information concerning each Plaintiff, including the following:

43. Mr. Cockrum's social security number, date of birth, address, and other personally identifying information appeared in the leaked emails. Mr. Cockrum was required to provide most of this information in order to obtain Secret Service clearance to attend an event with President Obama. Mr. Cockrum's private information remains on the Internet to this day.

44. Mr. Schoenberg's and his wife's social security number, dates of birth, address, banking relationships, and other personally identifying information appeared in the leaked emails. Mr. Schoenberg was required to provide this information to obtain Secret Service clearance to attend an event with President Obama. Mr. Schoenberg's private information remains on the Internet to this day.

45. The publication of DNC emails in general received coverage in Mr. Comer's hometown newspaper, and his family members—including his grandparents—searched for and read emails to, from, and about him, including emails suggesting that Mr. Comer is gay. Until publication of his emails on WikiLeaks, Mr. Comer was not openly gay with his grandparents and several other members of his close-knit family. These emails revealed his sexuality to family members with whom he had decided not to share this facet of his life and in a manner he never would have chosen. Realizing that his grandparents would learn that he was gay caused instantaneous and intense distress, and knowing that they learned in this way continues to cause great sadness. This revelation and discussion of other private details about his life and work caused immediate and lasting strain on family relations.

46. Mr. Comer also had private medical information disseminated. A May 17, 2016 email from Mr. Comer to his boss graphically describes his work while suffering from a virus.

B. The Private Information Disseminated About Plaintiffs Was of No Legitimate Concern to the Public

47. Plaintiffs were private Americans who did not hold and have not sought political office.

48. Some information dumped by WikiLeaks was the subject of news reporting and some political controversy. But much of the information published, including sensitive private facts related to the Plaintiffs, was not the subject of news reporting or public interest but was nevertheless made available for the whole world to see.

49. The published information about Plaintiffs on topics such as sexual orientation, medical conditions, private relationships, social security numbers, and personal financial information was not of any relevance to the political campaign or at all newsworthy.

50. There is no legitimate public concern in these intimate details about private individuals' personal relationships with family and friends.

51. There is no legitimate public concern in Plaintiffs' medical information.

52. There is no legitimate public concern in Plaintiffs' personally identifying information such as banking information, social security numbers, and home addresses.

C. Plaintiffs Suffered Concrete and Tangible Harms From the Publication of Their Private Information, Including Injuries to Their Person and Property

53. The publication of the private facts caused the Plaintiffs to suffer greatly, as would any reasonable person who had such private details about their personal life published with fanfare on the Internet.

54. Shortly after the DNC emails were published on WikiLeaks, Mr. Cockrum learned that his social security number and other personally identifying information were available online for the world to see.

55. Immediately thereafter, and ever since, Mr. Cockrum has received notices of strangers attempting to obtain credit in his name, some successfully.

56. After his personal information was published, Mr. Cockrum feared identity theft—and worse—so he directed his personal assistant to take extra precautions when admitting visitors to his office and speaking with strangers on the phone.

57. He continues to experience anxiety over actual and potential future identity theft, and especially the ability of sophisticated hackers to gain access to his personal or business financial accounts. He feels that protecting himself, his family, and his philanthropy will require extreme vigilance with no end in sight.

58. Shortly after publication of DNC emails on WikiLeaks, Mr. Schoenberg learned that his and his wife's social security numbers, dates of birth, home address, phone numbers, banking relationships, and other personally identifying information had been broadcast to the world.

59. As a result of the mass publication of this private information, Mr. Schoenberg began getting phone calls and letters about fraudulent applications for credit in his and his wife's name. One such application resulted in issuance of a credit card on a new account shared between his wife and a stranger.

60. He has been required to spend countless hours speaking with creditors and other financial and reporting institutions to rectify the problems caused by the disclosure of his social security number.

61. He continues to experience anxiety and fear over potential future identity theft, and especially the ability of sophisticated hackers to gain access to his financial accounts using personally identifying information that is now readily available online. Even if his social security number is removed from the WikiLeaks archive available online, he will forever be concerned that it has now been substantially disseminated among criminal enterprises. He fears that these risks to his and his family's financial security will never go away.

62. Mr. Comer's sexual orientation was disclosed to grandparents for whom he cares deeply, but who do not approve of homosexuality—and with whom he was not prepared to discuss this aspect of his life. He had grown up visiting with them often and continued to have a close relationship with them into adulthood; but he feared that being open with them about his homosexuality would threaten whatever years he has left with them. This relationship is now tested by a tension Mr. Comer had worked hard to prevent.

63. The emotional toll caused by publication of his private emails also brought an end to a long-term romantic relationship that Mr. Comer believes would have remained strong today, but for the publication of his private information.

64. Mr. Comer's working environment deteriorated rapidly after his emails' release. He perceived that his counterparts in the Hillary Clinton campaign viewed him as damaged goods. He was marginalized and isolated by his colleagues and saw a major event that he eagerly anticipated leading taken away from him and given to other staff in the wake of the WikiLeaks posting.

65. Not only did Mr. Comer see his working relationships and professional reputation suffer, but he suffered broader reputational harm as well. Emails taken out of context in which he made colloquial references about other gay individuals to friends who understood that those

references were made without animus or disrespect generated press reports labeling Mr. Comer as homophobic and racist. Mr. Comer's deep commitment to civil rights made these allegations predictably and particularly painful, and they also risked damage to his reputation in the advocacy community.

66. After being marginalized at work as a result of the publication of his hacked emails, Mr. Comer determined that he was required to leave his job, leading to lost wages.

67. Mr. Comer received constant harassing phone calls—as many as 20 per day—for several weeks in the aftermath of the publication of his emails. While the quantity of hostile messages tapered over time, they did not stop for months, and this experience still impacts his comfort in communicating over the phone. Many of the callers threatened violence and used vile language, calling him “a faggot,” wishing he would “fucking die,” or saying “the world would be better off if [he] were dead.” This barrage of insults and threats made him feel like a pariah.

68. Mr. Comer also experienced significant emotional distress, including anxiety and depression. He has incurred and continues to incur substantial medical expenses for treatment for distress caused by the Defendants and their co-conspirators.

69. The injuries suffered by all three Plaintiffs were the result of their having taken steps to advocate for and support a candidate for President—steps for which, as a result of this conspiracy, they were punished.

II. The Injuries Suffered by Plaintiffs Were Caused by a Conspiracy Involving the Defendants and Others

70. On information and belief, the publication of Plaintiffs' private information and the injuries described above resulted from a conspiracy between Defendants, Russian government agents, and other parties to disseminate information hacked from the DNC.

71. Public reporting from U.S. intelligence and law enforcement officials, and other sources, establishes all of the hallmarks of a conspiracy between Defendants and other co-conspirators, including Russian actors. Each party had motive to act together, there was ample opportunity to reach agreement, each party took actions that would be illogical absent a conspiracy, each party benefited from these actions, and each party took steps to conceal what had occurred.

72. U.S. government officials have opened a series of law enforcement and bipartisan congressional investigations into Russian interference in the election and links to the Trump Campaign. In particular, on March 20, 2017, in public testimony to the House Intelligence Committee, then-FBI Director Comey stated that the FBI investigation into Russian interference with the election includes the “nature of any links between individuals associated with the Trump campaign and the Russian government and whether there was any coordination between the campaign and Russia’s efforts.” On May 3, 2017, in testimony before the Senate Judiciary Committee, Comey again confirmed the existence of an ongoing investigation into possible collusion between the Trump campaign and Russia to interfere with the 2016 election. According to news reports based on information from U.S. officials, “[t]he FBI has information that indicates associates of President Donald Trump communicated with suspected Russian operatives to possibly coordinate the release of information damaging to Hillary Clinton’s campaign.”

73. Plaintiffs seek accountability and redress for the harms they suffered from their fellow Americans who were participants in this conspiracy.

A. The Russian Government Engaged in a Campaign to Interfere in the U.S. Election and Tilt the Outcome to Donald J. Trump

74. According to an unclassified public report released by the U.S. Intelligence Community (hereinafter “the U.S. Intelligence Community Report”):

Russian efforts to influence the 2016 US presidential election represent the most recent expression of Moscow’s longstanding desire to undermine the US-led liberal democratic order, but these activities demonstrated a significant escalation in directness, level of activity, and scope of effort compared to previous operations.

We assess Russian President Vladimir Putin ordered an influence campaign in 2016 aimed at the US presidential election. Russia’s goals were to undermine public faith in the US democratic process, denigrate Secretary Clinton, and harm her electability and potential presidency. We further assess Putin and the Russian Government developed a clear preference for President-elect Trump. We have high confidence in these judgments.

75. According to former Director of National Intelligence James Clapper, the U.S. intelligence community has “concluded first that President Putin directed an influence campaign to erode the faith and confidence of the American people in our presidential election process. Second, that he did so to demean Secretary Clinton, and third, that he sought to advantage Mr. Trump.”

B. As Part of That Campaign, Russian Operatives Hacked the Servers of U.S. Political Entities, Including the DNC

76. In order to defeat Hillary Clinton and help elect Donald Trump, hackers working on behalf of the Russian government broke into computer networks of U.S. political actors involved in the 2016 election, including the DNC and the Clinton campaign. Elements of Russian intelligence gained unauthorized access to DNC networks in July 2015, and maintained that access until at least June 2016. By March 2016, the Russian General Staff Main Intelligence Directorate (“GRU”) gained unauthorized access to DNC networks, Democratic Congressional

Campaign Committee (“DCCC”) networks, and the personal email accounts of Democratic party officials and political figures.

77. By May 2016, the GRU had extracted large volumes of data from DNC networks, including email accounts of DNC staffers.

C. On Information and Belief, Through a Series of Secret Meetings in the Spring and Summer of 2016, Defendants and Their Co-conspirators Agreed to Disseminate Certain Hacked DNC Emails, and Russia Sought to Obtain Policy Concessions

a. *Defendants engaged in a series of meetings with Russian operatives throughout 2016*

78. On information and belief, Russian actors and agents of the Trump Campaign held multiple secret meetings throughout the campaign, including around the time that Russian operatives were stealing material from the DNC servers and in the days and weeks leading up to the publication of Plaintiffs’ private information.

79. The Government Communications Headquarters (GCHQ), a British intelligence agency, first became aware of suspicious interactions between members of the Trump Campaign and Russian intelligence operatives in late 2015. German, Estonian, and Polish agencies—among others—also detected such interactions between late 2015 and early 2016.

80. In the summer of 2016, U.S. intelligence officials collected information that senior Russian intelligence operatives and political figures were discussing exerting influence over the Trump Campaign. They considered this intelligence to be sufficiently credible that they passed it on to the FBI, which opened a counterintelligence investigation that continues to this day into whether the Trump Campaign aided Russian interference in the 2016 election.

81. On information and belief, Trump Campaign associates exchanged at least 18 undisclosed calls and emails with Russian officials and agents between April and November 2016, including at least six with Russian Ambassador to the United States Sergey Kislyak.

82. On information and belief, Russian Deputy Foreign Minister Ryabkov has acknowledged contacts between Russian officials and Trump's "immediate entourage" during the campaign.

83. On information and belief, around the time Manafort took over as campaign chairman in May of 2016, he met with Konstantin Kilimnik, a Russian-Ukrainian operative with suspected ties to Russian intelligence. Manafort met with Kilimnik again in August of 2016. Manafort discussed the hacking of DNC emails with Kilimnik, and Kilimnik has claimed that he played a role in preventing adoption of a version of an amendment to the Republican Party platform regarding military aid to Ukraine.

84. On June 9, 2016, Mr. Trump's son Donald Trump Jr., Paul Manafort, and Jared Kushner attended a meeting at Trump Tower with Natalia Veselnitskaya, a Kremlin-connected Russian lawyer. The meeting was reportedly arranged at the request of Emin Agalarov, the son of Aras Agalarov, an oligarch connected with Putin.

85. On information and belief, on or about July 7, 2016, Page visited Moscow and met with Putin confidants Igor Sechin and Igor Diveykin.

86. On information and belief, on or about July 18, 2016, during the Republican National Convention and four days before Plaintiffs' private data was dumped to the world, representatives of the Trump Campaign, including Jeff Sessions, Page, and Trump advisor J.D. Gordon, met with Kislyak.

b. Long-standing relationships between agents of the Trump Campaign and Russia provided a critical foundation for these meetings, which otherwise would have been anathema to a U.S. presidential campaign

87. The Trump Campaign employed a series of top advisors with longstanding and extensive financial and personal ties to Russia.

88. Trump and the Trump businesses themselves have deep financial ties to Russia that date back to at least the mid-1990s. As early as 1987, Trump traveled to Russia to explore building properties there.

89. Throughout the 2000s, Trump tried, ultimately unsuccessfully, to develop real estate ventures in Russia. In 2007, he declared with respect to his building plans, “we will be in Moscow at some point.”

90. Although Trump’s long-standing hopes to develop properties in Russia have not yet come to fruition, Russian investors have played a key role in financing many of his real estate projects. Members of the Russian elite have invested more than \$100 million in Trump properties in the United States, including in Florida and New York.

91. In September 2008, at a real estate conference in New York, Donald Trump Jr., an official and agent of the Trump businesses, stated, “[I]n terms of high-end product influx into the United States, Russians make up a pretty disproportionate cross-section of a lot of our assets; say in Dubai, and certainly with our project in SoHo and anywhere in New York. We see a lot of money pouring in from Russia.”

92. In 2013, Trump concluded an agreement to hold the Miss Universe pageant in Russia. The deal was financed in part by Aras Agalarov, an Azerbaijani oligarch who is an ally of Russian President Putin. (Agalarov subsequently signed a preliminary deal with Trump to build a tower with Trump’s name on it in Moscow.) During an interview in Moscow at the time of the pageant, Trump stated, “I do have a relationship [with Putin] and I can tell you that he’s very interested in what we’re doing here today. . . . I do have a relationship with him. . . . He’s done a very brilliant job in terms of what he represents and who he’s represented.” While in Moscow, Trump also met with several other oligarchs with close ties to Putin. After that

meeting, Trump stated, “I have a great relationship with many Russians, and almost all of the oligarchs were in the room.”

93. On September 21, 2015, Trump told the radio host Hugh Hewitt on his program, “The oligarchs are under [Putin’s] control, to a large extent. I mean, he can destroy them, and he has destroyed some of them. . . . Two years ago, I was in Moscow . . . with the top-level people, both oligarchs and generals, and top-of-the-government people. I can’t go further than that, but I will tell you that I met the top people, and the relationship was extraordinary.”

94. On November 10, 2015, during a Republican primary debate, Trump stated “I got to know [Putin] very well because we were both on *60 Minutes*. We were stablemates, and we did very well that night.”

95. Trump’s business relationships in Russia continued through the 2016 presidential campaign. Between April and December of 2016, the Russian patent office granted 10-year extensions to six Trump trademarks that were set to expire in 2016.

96. Beyond Trump himself, Manafort, Page, Flynn, and Kushner all also had long-standing interests in and ties to Russia that, on information and belief, made them similarly receptive to Russian entreaties.

97. On information and belief, in 2005, Manafort proposed to a Russian billionaire ally of President Putin’s a plan for Manafort to influence politics inside the United States to benefit Putin’s government. Manafort eventually signed a \$10 million annual contract with the billionaire beginning in 2006. Manafort later advised Ukrainian President Viktor Yanukovich and his pro-Russian political party and helped him win several elections until Yanukovich was ousted from power in 2014. After Yanukovich was forced to flee, a discovered ledger indicated

millions in undisclosed cash payments from Yanukovych and his pro-Russian political party to Manafort between 2007 and 2012.

98. In March 2016, Trump identified Carter Page as one of his campaign's foreign policy advisors. Page was an investment banker with Merrill Lynch in Moscow from 2004 to 2007. In that capacity he was an adviser to Gazprom, a Russian state-owned energy company.

99. On information and belief, in the summer of 2016, the FBI obtained a FISA warrant for Page, on the basis that there was probable cause to believe that he was acting as an agent of a foreign power. The application for that warrant cited Page meeting with Russian intelligence operatives as early as 2013 (although the FBI concluded that Page did not know he was in contact with a spy). The application also cited reports alleging that an agreement had been made between the Trump Campaign and Russian operatives to trade the dissemination of hacked emails for changes in the Republican platform regarding Ukraine.

100. Michael Flynn also served as an adviser to the Trump Campaign and was considered as a possible running mate for Trump. Following the election, he briefly served as Trump's National Security Advisor. In 2015, Flynn was paid \$11,250 by the U.S. subsidiary of a Russian cybersecurity firm and the same amount by a U.S. air cargo company affiliated with the Russian-owned Volga-Dnepr Group. On December 10, 2015, Flynn was paid \$45,000 to speak at an RT (formerly *Russia Today*) anniversary gala in Moscow, where he sat at the same table as President Putin and his chief of staff, Sergei Ivanov. The U.S. Intelligence Community Report describes RT as "[t]he Kremlin's principal international propaganda outlet" and also notes that RT "has actively collaborated with WikiLeaks."

101. Jared Kushner is Trump's son-in-law and was one of the most senior advisors within the Trump Campaign. On information and belief, Kushner and his family have financial

and personal ties with Russian investors, including Lev Leviev and Roman Abramovich, two Russian oligarchs who are close Putin confidants.

c. Defendants and their co-conspirators each had interests in coordinating on the dissemination of the hacked DNC emails

102. On information and belief, Russia's practice when it engages in cyber-attacks related to an election in another country is to partner with aligned parties who are on the ground in that country. While Russia has extensive experience entering into and extracting information from computer networks, its modus operandi for interfering in elections like the 2016 U.S. election is to seek out domestic political operatives who can provide political expertise.

103. On information and belief, Russia had an interest in coordinating with Defendants and their agents to disseminate the hacked emails in a way that would maximize their political impact.

104. On information and belief, Russia also had an interest in extracting concessions from and obtaining leverage over Defendants and their agents in exchange for the dissemination of the information it had hacked from the DNC servers.

105. As former CIA Director John Brennan has put it, "I know what the Russians try to do. They try to suborn individuals and try to get individuals, including U.S. individuals, to act on their behalf, wittingly or unwittingly."

106. On information and belief, Defendants also had an interest in coordinating with their co-conspirators to disseminate the information that Russian operatives had stolen from the DNC.

107. In the spring of 2016, as it became apparent that Mr. Trump would face Secretary Clinton in the general election, polls showed his campaign trailing by a wide margin.

108. The Trump Campaign faced difficulty in bringing together Republican supporters. It trailed far behind its opponent in resources. To have a chance of winning, the Trump Campaign needed to discredit its opponent, depress her support, and create tensions and internal battles within the Democratic Party.

109. On information and belief, this need provided the Trump Campaign with a powerful motive to work with Russian operatives to cause the dissemination of the hacked materials.

d. Defendants' conduct further demonstrates that they were receptive to coordinating with Russia during the campaign

110. Not only did Defendants have a motive to coordinate with their co-conspirators to disseminate the hacked DNC emails, but recently revealed information makes clear that they were aware of Russia's effort to interfere in the election to benefit Trump and had no hesitation about coordinating with Russia to benefit the Trump Campaign and harm Trump's opponent.

111. As set forth above, Donald Trump Jr., Kushner, and Manafort met with a Kremlin-connected Russian lawyer on June 9, 2016. According to reports, Trump Jr. agreed to attend this meeting after being promised damaging material about his father's opponent. The Trump Campaign participants in the meeting expected that the lawyer, Natalia Veselnitskaya, would produce such material. Trump Jr. attended the meeting after receiving an email indicating that the material was part of a Russian government effort to aid the Trump Campaign. That email (released on July 11, 2017 on Trump Jr.'s Twitter account) stated, "This is obviously very high level and sensitive information but is part of Russia and its government's support for Mr. Trump." Rather than refuse to be part of an effort by Russia to interfere in the election through the release of Russian-obtained information, Trump Jr. expressed enthusiasm for the idea in a responsive email, in which he stated: "If it's what you say I love it especially later in the

summer.” According to reports, the formatting of the email chain suggests that it was forwarded to Manafort and Kushner before the meeting, meaning that they attended the meeting even though they too were aware that it was part of Russian efforts to interfere with the election. Trump Jr. acknowledged in a tweet issued on July 10, 2017 that he took the “meeting to hear info about” Trump’s opponent.

112. This was not the only meeting that Trump Campaign officials are known to have had with Russian-linked officials seeking information that could undermine Trump’s opponent. Around the time that WikiLeaks published the information hacked from the DNC, a British security consultant named Matt Tait was approached by a Republican political operative named Peter Smith with links to the Trump Campaign about an operation to obtain emails allegedly taken from Clinton’s private server.

113. According to an essay that Tait published on *Lawfare*, Tait warned Smith that if such emails existed, they had likely been obtained by Russian agents as part of wider efforts to interfere with the U.S. election. According to Tait:

Smith . . . didn’t seem to care. From his perspective it didn’t matter who had taken the emails, or their motives for doing so. He never expressed to me any discomfort with the possibility that the emails he was seeking were potentially from a Russian front, a likelihood he was happy to acknowledge. If they were genuine, they would hurt Clinton’s chances, and therefore help Trump. . . . Given the amount of media attention given at the time to the likely involvement of the Russian government in the DNC hack, it seemed mind-boggling for the Trump campaign—or for this offshoot of it—to be actively seeking those emails.

114. According to Tait, Smith appeared to be closely connected to the Trump Campaign and its agents:

[I]t was immediately apparent that Smith was both well connected within the top echelons of the campaign and he seemed to know both Lt. Gen. Flynn and his son well. Smith routinely talked about the goings on at the top of the Trump

team, offering deep insights into the bizarre world at the top of the Trump campaign.

In September 2016, Smith sent Tait a document entitled “A Demonstrative Pedagogical Summary to be Developed and Released Prior to November 8, 2016.” The document “detailed a company Smith and his colleagues had set up as a vehicle to conduct the research: ‘KLS Research’, set up as a Delaware LLC ‘to avoid campaign reporting,’ and listing four groups who were involved in one way or another. The first group, entitled ‘Trump Campaign (in coordination to the extent permitted as an independent expenditure)’ listed a number of senior campaign officials: Steve Bannon, Kellyanne Conway, Sam Clovis, Lt. Gen. Flynn and Lisa Nelson.” According to Tait, “this document was about establishing a company to conduct opposition research on behalf of the campaign, but operating at a distance so as to avoid campaign reporting. Indeed, the document says as much in black and white.” On information and belief, this entity was established and Smith’s activities were conducted in coordination with the Trump Campaign. On information and belief, the willingness Smith showed to coordinate with potential Russian agents to obtain and disclose hacked data reflects Defendants’ general approach to such coordination.

e. On information and belief, Defendants and their co-conspirators reached an agreement to disseminate the hacked DNC emails

115. As described above, Defendants and their co-conspirators had a long history of financial and personal entanglements, extensive contact during the time period relevant to the dissemination of the hacked DNC emails, ample motive to coordinate regarding such dissemination, and a demonstrated inclination to coordinate to benefit Mr. Trump’s campaign and undermine support for his opponent.

116. On information and belief, during contacts between Russian officials and agents for Defendants, the parties did in fact reach an agreement regarding the publication of hacked DNC material (which included Plaintiffs' private information). On information and belief, this agreement included policy concessions to Russian interests by Defendants. U.S. intelligence officials deemed reports describing the contours of the agreement between Defendants and Russian officials to be important enough to brief both the outgoing and incoming Presidents about it.

D. The Trump Campaign Provided a Series of Beneficial Concessions to Russia

117. In the midst of the extensive contacts between Russian officials and Defendants during the relevant time period, not only was Plaintiffs' hacked information disclosed, but the Republican Party, now under the control of the Trump Campaign, at the Campaign's direction reversed its long-standing position vis-à-vis Russia to adopt a more pro-Russia approach.

118. For many years, the Republican party has taken strong positions opposed to Russia and the government of Vladimir Putin.

119. During the 2008 presidential campaign, for example, the Republican nominee John McCain made opposition to Russian aggression a centerpiece of his platform. In particular, the Republican Party firmly opposed Russian actions against neighboring states.

120. In his speech at the 2008 Republican National Convention, McCain criticized Russian aggression, "Russia's leaders, rich with oil wealth and corrupt with power, have rejected democratic ideals and the obligations of a responsible power. They invaded a small, democratic neighbor to gain more control over the world's oil supply, intimidate other neighbors, and further their ambitions of re-assembling the Russian empire." McCain added, "[W]e can't turn a blind

eye to aggression and international lawlessness that threatens the peace and stability of the world and the security of the American people.”

121. During the 2012 presidential campaign, Republican nominee Mitt Romney called Russia “our number one geopolitical foe.” During a presidential debate, Romney stated, “I have clear eyes on this. I’m not going to wear rose-colored glasses when it comes to Russia, or Mr. Putin.”

122. During his acceptance speech at the 2012 Republican National Convention, Romney again challenged Mr. Putin. Romney promised: “Under my administration, our friends will see more loyalty, and Mr. Putin will see a little less flexibility and more backbone.”

123. The Trump Campaign took a dramatically different approach to Russia, marking a stark departure from its party’s traditional platform.

124. On information and belief, on or about July 18, 2016—four days before DNC emails containing Plaintiff’s private information were dumped publicly, and the same day that Sessions, Page, and Gordon met with Kislyak—the Trump Campaign worked to remove strong language about Russia’s action in Ukraine from the Republican platform.

125. Specifically, at a Republican platform meeting, one member proposed an amendment stating: “Today, the post-Cold War ideal of a ‘Europe whole and free’ is being severely tested by Russia’s ongoing military aggression in Ukraine.” The proposed amendment continued: “The Ukrainian people deserve our admiration and support in their struggle.” Accordingly, the amendment called for maintaining or increasing sanctions against Russia, increasing aid for Ukraine, and “providing lethal defensive weapons” to Ukraine. But, according to reporting, Trump Campaign staffers in the room “intervened” and “were able to get the issue

tabled while they devised a method to roll back the language.” The Campaign staffers wrote an alternate amendment “with softer language,” which was ultimately adopted.

126. Mr. Gordon later would admit that he was personally involved in softening the language on Ukraine.

127. Despite Russia’s recent aggression in Ukraine, and in contrast to the convention speeches of Senator McCain and Governor Romney in 2008 and 2012, Trump did not mention Russia at all during his convention speech.

128. The Trump Campaign took other steps to benefit Russia. The Trump Campaign advanced a significant Russian foreign policy interest by casting doubt on the U.S.’s commitment to its NATO allies. Candidate Trump repeatedly declined to support NATO’s historical commitment to defend members who are under attack, refused to offer support to Baltic countries if they were attacked by Russia, and instead criticized NATO members. In response to Trump’s comments regarding NATO, Republican Senator Lindsey Graham stated that “The Republican nominee for President is essentially telling the Russians and other bad actors that the United States is not fully committed to supporting the NATO alliance.”

129. Trump and his associates also have undertaken efforts to lift sanctions imposed on Russia in response to its interference with the 2016 election. On December 29, 2016, the Obama administration imposed economic sanctions on Russian actors in response to such interference. The United States also expelled certain Russian diplomats and seized Russian-owned facilities in New York and Maryland.

130. On information and belief, on that same day, in a phone conversation with Russian ambassador Kislyak, Flynn urged Russia not to respond to the recent U.S.-imposed sanctions. Flynn subsequently lied about the substance of the conversation.

131. Immediately upon taking office, the Trump administration undertook efforts to lift economic sanctions imposed on Russia.

132. Another of Russia's foreign policy goals has been to improve Russia's and Putin's image within the United States. Candidate Trump made a series of comments supportive of Putin, all consistent with this Russian policy desire. For example, in December 2015, Mr. Trump said of Putin: "It is always a great honor to be so nicely complimented by a man so highly respected within his own country and beyond." Mr. Trump elsewhere during the campaign described Putin as "very much of a leader" with "very strong control over his country," adding that "he's been a leader, far more than our president has been a leader."

133. This public relations campaign has been effective. According to a recent Gallup poll, "Americans see Russian President Vladimir Putin in a better light than two years ago."

134. Mr. Trump also sought to minimize Putin's negative human rights record. In response to questions about Putin arranging the deaths of opponents, Trump responded, "I haven't seen any evidence that he killed anybody."

135. These actions and other statements from the Trump Campaign helped to further Russia's foreign policy objectives.

E. Pursuant to the Conspiracy, Certain Hacked DNC Emails, Containing Plaintiffs' Private Information, Were Published to the World on WikiLeaks

136. On July 22, 2016, four days after the change to the Republican Party platform and in furtherance of the conspiracy, actors in control of the stolen materials obtained by Russia caused WikiLeaks to post thousands of private emails hacked from the DNC on the Internet. As set forth above, the emails published on WikiLeaks included private information about each of the Plaintiffs—and about dozens of other private Americans. The information about Plaintiffs was not newsworthy and its release caused them substantial injuries.

137. On information and belief, Defendants conspired with their co-conspirators to select the materials to be released and time the release of the hacked DNC emails to obtain maximum political benefit for the Trump Campaign. Although Russian agents had possessed large volumes of DNC data for some time, the DNC emails were not published on WikiLeaks until the timing was politically optimal to benefit the Trump Campaign. As Trump Jr. indicated in an email (later published on his Twitter account), the release of information would be helpful to the Trump Campaign “especially later in the summer.”

138. Shortly after the DNC emails were published, Stone, who was still in close contact with Trump and Manafort, admitted in an interview that he had communicated with WikiLeaks founder Julian Assange but that he was “not at liberty” to discuss aspects of those communications. On October 12, 2016, Stone admitted that he had “backchannel communications” with Assange “through an intermediary—somebody who is a mutual friend.” He added that “[t]hat friend travels back and forth from the United States to London and we talk.”

139. At around the time the DNC emails were published, Stone engaged in public and private Twitter conversations with the hacker Guccifer 2.0, who several weeks earlier had claimed credit for the DNC hack.

140. According to the U.S. Intelligence Community Report, Guccifer 2.0 was working as an agent of Russian military intelligence. The report states that GRU (Russian intelligence) “used the Guccifer 2.0 persona, DCLeaks.com, and WikiLeaks to release US victim data obtained in cyber operations publicly and in exclusives to media outlets.” The “GRU relayed material it acquired from the DNC and senior Democratic officials to WikiLeaks. Moscow most likely chose WikiLeaks because of its self-proclaimed reputation for authenticity.”

141. The strategic timing and content of the publication of DNC emails right before the Democratic National Convention aggravated tensions and internal disagreements within the Democratic party, as intended. Headlines from around the time of the Convention demonstrated the effect of the publication. *The New York Times* reported that “the publication of 20,000 Democratic National Committee emails by WikiLeaks this weekend provided a disastrous prelude to the convention.” A *National Review* article entitled “WikiLeaks blows up the party’s hopes for a smooth convention week” explained, “This week, the Democrats begin their convention with the resignation of their national committee chairwoman, Debbie Wasserman Schultz, after nearly 20,000 of the committee’s e-mails were published by WikiLeaks.”

F. Throughout the Remainder of the Campaign, Defendants Amplified and Drew Attention to Hacked Emails that Had Been Published

142. The Trump Campaign sought to maximize its advantage from the release of the hacked emails by further publicizing and amplifying the released information. In the last months of the campaign, Mr. Trump mentioned WikiLeaks over 160 times during his campaign appearances, drawing increased attention to the released Russian-hacked emails. On July 23, the day after the release of the DNC emails, candidate Trump sought to amplify and gain further political benefit from the timing of the release of the emails. “The Wikileaks e-mail release today was so bad to Sanders that it will make it impossible for him to support [Hillary Clinton], unless he is a fraud,” Trump tweeted to his followers.

143. Defendants also continued to communicate with Russia and others regarding the hacking and release of emails that could harm Secretary Clinton. On July 27, 2016, during the Democratic National Convention, candidate Trump held a press conference in Florida. During his remarks, Trump called on Russia to continue its cyberattacks, stating, “Russia, if you’re listening, I hope you’re able to find the 30,000 [Hillary Clinton] emails that are missing.”

144. Following that statement, Defendant Stone engaged in a series of exchanges with one of the Russian hackers culminating in the release of a second tranche of emails, this time from the DCCC and Clinton Campaign Chairman John Podesta's account.

145. In August and September 2016, Defendant Stone and Guccifer 2.0 engaged in an exchange of direct messages over Twitter.

146. On August 12, 2016, Guccifer 2.0 released documents obtained from the DCCC and tweeted: "@RogerJStoneJr thanks that u believe in the real #Guccifer2." Guccifer 2.0 subsequently tweeted "paying u back," in reply to a tweet from Defendant Stone.

147. On August 18, 2016, Defendant Stone stated in a C-SPAN interview that he was in touch with Assange "through an intermediary."

148. On August 21, 2016, Defendant Stone tweeted: "Trust me, it will soon the [sic] Podesta's time in the barrel. #CrookedHillary."

149. In mid-September, Stone said on a radio interview that he expected "Julian Assange and the Wikileaks people to drop a payload of new documents on a weekly basis fairly soon."

150. On October 1, 2016, Defendant Stone tweeted: "Wednesday @HillaryClinton is done."

151. Two days later, on October 3, 2016, Defendant Stone tweeted: "I have total confidence that @wikileaks and my hero Julian Assange will educate the American people soon # LockHerUp."

152. Then, on October 4, 2016, Defendant Stone tweeted: "Payload coming. #Lockthemup."

153. Just two days later, on October 7, 2016, WikiLeaks published the first batch of emails hacked from Clinton campaign chairman John Podesta, one hour after an Access Hollywood video surfaced on which Trump made lewd remarks about sexually assaulting women.

154. Later on, Trump himself previewed disclosures that would be coming, in order to elevate attention to them. For example, on November 2, he declared: “So today, I guess WikiLeaks, it sounds like, is going to be dropping some more.”

155. As set forth above, the release of Plaintiffs’ private information, as well as the subsequent amplification by Defendants, caused them real and substantial harm as a result of their participation in the political process and their support and advocacy for a particular presidential candidate. This harm to Plaintiffs was a direct and foreseeable consequence of the dissemination of the hacked emails. The publication of the emails also served to intimidate Plaintiffs and potential donors and supporters of Mr. Trump’s opponent, as it put them on notice that their support and advocacy could expose them to the release of their private information.

G. All of the Parties Then Sought to Deny and Conceal and Evidence of Their Interactions

156. Defendants and their co-conspirators have said and done nothing to hold Russia accountable for this attack on the election and the privacy of Plaintiffs and others like them. Quite the opposite—Defendants have denied that Russia was involved; they have continued to take actions favorable to Russia, including efforts to roll back sanctions imposed by the Obama administration in response to Russian interference in the election; they have attempted to conceal their contacts with Russian actors and in some cases have overtly lied about such contacts.

157. On information and belief, Defendants and their co-conspirators have attempted to conceal their involvement in the change in the Republican Party’s platform language about

Ukraine. Mr. Trump and Mr. Manafort initially denied any campaign involvement in the platform language. In January 2017, J.D. Gordon, the Trump Campaign's national security policy representative at the Republican National Convention, also denied involvement. But in March 2017, Mr. Gordon admitted that he was personally involved in softening the language on Ukraine.

158. While letting Russia off the hook for its role in disseminating private information and interfering with the U.S. election, Defendants and other Trump associates have repeatedly attempted to conceal and have failed to disclose their own contacts with Russian actors.

159. On information and belief, in December 2016, Jared Kushner and Michael Flynn discussed with Russian Ambassador Kislyak the establishment of a communication back channel with Russia, which would use Russian diplomatic facilities in an apparent attempt to avoid detection by American intelligence agencies.

160. Also in December 2016, on information and belief, Mr. Kushner met with Sergey Gorkov, the chairman of Vnesheconombank, a Russian state-owned bank that is subject to U.S. sanctions.

161. Mr. Kushner failed to disclose these meetings, and others with foreign government officials, in security clearance forms, as required by law.

162. Trump Campaign advisor and now-Attorney General Jeff Sessions also failed to disclose during his Senate confirmation hearing and in security clearance forms at least two meetings during the campaign with Russian ambassador Kislyak.

163. Mr. Flynn failed to disclose payments from foreign sources, including Russian sources, as required by law.

164. Mr. Manafort failed to register with the Department of Justice as a foreign agent while working for Yanukovych. In June 2017, Manafort retroactively filed foreign agent registration forms showing that his firm had been paid over \$17 million from Yanukovych's pro-Russian Ukrainian political party over a two-year period.

165. Defendants also concealed the June 9, 2016 meeting between Donald Trump Jr., Manafort, Kushner, and a Russian lawyer. When news of the meeting came to light, Trump Jr. offered differing and incomplete explanations of the origins and purpose of the meeting. He first said the meeting was focused on questions of child adoption. Only later did he acknowledge that the purpose of the meeting was to discuss information about Trump's opponent to benefit his campaign.

166. On the same day that he called on Russia to hack Hillary Clinton's emails, Trump walked back his repeated boasts about his Russia connections, insisting that "I never met Putin. I've never spoken to him." In a television interview, he reiterated: "But I have nothing to do with Russia, nothing to do, I never met Putin, I have nothing to do with Russia whatsoever."

167. On October 26, 2016, at a rally in Kinston, North Carolina, Trump falsely declared, "First of all, I . . . have no business whatsoever with Russia, have nothing to do with Russia."

168. To date, despite questions about his business relationships and financial ties to Russia, Trump has refused to disclose the past ten years of his tax returns. He has refused to disclose them in a stark break from precedent and in the face of extreme political pressure to disclose them. He has done this notwithstanding the obvious opportunity to put to rest some of the damaging speculation about Russian dealings that may or may not be indicated on these

returns. On information and belief, these tax returns could reveal the nature and extent of his business entanglements with Russian interests.

169. Mr. Trump and his associates have repeatedly questioned or denied Russia's involvement in the hacking of the DNC emails and interference with the 2016 election, despite the overwhelming consensus of the U.S. Intelligence Community and others that Russia was responsible.

170. For example, on June 15, 2016, shortly after the hacking of the DNC became public, Trump suggested that the DNC hacked itself to get attention.

171. On July 26, 2016, Trump tweeted that Democrats were blaming Russia to "deflect the horror and stupidity of the WikiLeaks disaster."

172. On September 8, 2016, in an interview on the Russian-controlled media outlet RT, Trump stated that it is "probably unlikely" that Russia interfered with the election. He further stated: "I think maybe the Democrats are putting that out. Who knows? But I think that it's pretty unlikely."

173. On September 26, 2016, during the first presidential debate, Trump dismissed accusations that Russia was behind the DNC hacks and stated: "It also could be somebody sitting on their bed that weighs 400 pounds, okay?"

174. On October 9, 2016, during the second presidential debate, Trump claimed that "[Clinton] doesn't know if it's the Russians doing the hacking. Maybe there is no hacking."

175. On November 28, 2016, in an interview with *Time* magazine after the election, Trump stated: "I don't believe [Russia] interfered. That became a laughing point, not a talking point, a laughing point."

176. After assuming the Presidency, Trump made repeated efforts to ingratiate himself with FBI Director Comey, who was overseeing an investigation into Russian interference in the 2016 election and possible Trump Campaign involvement. On information and belief, Trump asked for Comey's personal loyalty and also requested that Comey let go of his investigation into wrongdoing by Flynn. Trump and his staff also made several efforts to have members of the U.S. law enforcement and intelligence communities publicly rebut claims of such coordination.

177. On May 9, 2017, Trump fired Comey. On information and belief, the next day, he told Russian Foreign Minister Sergey Lavrov and Ambassador Kislyak that he "faced great pressure because of Russia," and that as a result of firing Comey, "That's taken off."

178. On July 6, 2017, in remarks to reporters while traveling in Poland, Trump stated, "I think it very well could be Russia but I think it could very well have been other countries," continuing, "no one really knows for sure." In fact, U.S. intelligence agencies are unanimous in the view that it was indeed Russia.

179. On July 7, 2017, Trump met personally with President Putin and reportedly accepted Putin's denial of involvement in trying to disrupt the U.S. election. Secretary of State Tillerson indicated that the two agreed that continued focus on this issue would be a hindrance and thus agreed to move on.

180. In sum, as set forth above, Russia adopted at its highest levels of government a strategy to interfere with the 2016 U.S. election and successfully executed that strategy by, among other things, stealing and conspiring with others to disseminate DNC emails. On November 8, 2016, Donald Trump won the election to become President of the United States. Russia achieved a major foreign policy goal with the election of Trump and defeat of Hillary Clinton.

181. In the process, Plaintiffs paid a personal price merely for seeking to participate in the democratic process. And the threat that actors like the Defendants and their co-conspirators might seek to disseminate hacked employee and supporter information again in the future hangs over our democratic process, imposing a chilling effect on the rights of Americans to support and advocate for candidates for office.

182. Defendants and their co-conspirators have engaged in extensive efforts to deny Russia's involvement in the hacked information, to undermine efforts to hold Russia accountable for its cyberattack on the DNC and release of Plaintiffs' personal information, and to conceal their contacts with Russian actors in order to conceal their own involvement in the conspiracy.

COUNT I

Public Disclosure of Private Facts in Violation of D.C. Law (Co-Conspirator and Aiding and Abetting Liability)

183. Plaintiffs incorporate by reference the preceding paragraphs as if fully set forth herein.

184. Defendants agreed with each other and with other parties, including Russian government officials and WikiLeaks, to publicly disclose on the Internet private email communications that were stolen, or hacked, from the DNC for the purpose of influencing the 2016 presidential election.

185. Defendants also aided and abetted the above-described public disclosure.

186. Defendants and their co-conspirators knew that the hacked DNC emails were private and intended to publicly disclose the private emails.

187. Defendants and their co-conspirators knew, were plainly indifferent to the fact, or consciously disregarded the foreseeable risk that the hacked DNC emails contained private facts, in which the public has no legitimate concern, about Plaintiffs and other individuals similarly

situated, and that publication of such information would cause suffering, shame, or humiliation to a person of ordinary sensibilities.

188. In furtherance of the conspiracy, one or more conspirators published on the Internet hacked DNC emails containing private facts about Plaintiffs and others, including information regarding sexual orientation, personal health matters, social security numbers, credit cards, personal relationships, banking relationships, home addresses, and telephone numbers.

189. As a direct and proximate result of the conduct of Defendants and their co-conspirators, Plaintiffs have sustained significant harm, entitling them to damages in an amount to be proven at trial.

190. The outrageous, malicious, and willful misconduct of the Defendants—conspiring with a hostile foreign government to publish Plaintiffs’ stolen and private information to the world as part of a conspiracy to influence a Presidential election—also entitles the Plaintiffs to punitive damages so that the Defendants themselves and others in their position are deterred from repeating their outrageous actions in the future.

COUNT II

Intentional Infliction of Emotional Distress in Violation of D.C. Law (Co-Conspirator and Aiding and Abetting Liability)

191. Plaintiffs incorporate by reference the preceding paragraphs as if fully set forth herein.

192. Defendants agreed with each other and with other parties, including Russian government officials and WikiLeaks, to publicly disclose on the Internet private email communications that were stolen, or hacked, from the DNC for the purpose of influencing the 2016 presidential election.

193. Defendants also aided and abetted the above-described public disclosure.

194. Defendants and their co-conspirators knew that the hacked DNC emails were private and intended to publicly disclose the private emails.

195. Defendants and their co-conspirators knew, were plainly indifferent to the fact, or consciously disregarded the foreseeable risk that the hacked DNC emails contained private facts about Plaintiffs and other individuals similarly situated, and that publication of the emails would cause Plaintiffs and others severe or extreme emotional distress.

196. In furtherance of the conspiracy, one or more conspirators published on the Internet hacked DNC emails containing private facts about Plaintiffs and others, including information regarding sexual orientation, personal health matters, social security numbers, credit cards, personal relationships, banking relationships, home addresses, and telephone numbers.

197. The conduct of Defendants and their co-conspirators was extreme, outrageous, and beyond the bounds of decency.

198. As a direct and proximate result of the conduct of Defendants and their co-conspirators, Plaintiffs have suffered severe or extreme emotional distress, entitling them to damages in an amount to be proven at trial.

199. The outrageous, malicious, and willful misconduct of the Defendants—conspiring with a hostile foreign government to publish Plaintiffs' stolen and private information to the world as part of a conspiracy to influence a Presidential election—also entitles the Plaintiffs to receive punitive damages so that the Defendants themselves and others in their position are deterred from repeating their outrageous actions in the future.

COUNT III

(Conspiracy to Intimidate Lawful Voters from Giving Support or Advocacy to Electors for President and to Injure Citizens in Person or Property on Account of Such Support or Advocacy in Violation of 42 U.S.C. 1985(3))

200. Plaintiffs incorporate by reference the preceding paragraphs as if fully set forth herein.

201. Plaintiffs are U.S. citizens who are lawfully entitled to vote.

202. Plaintiffs communicated with each other and with others at the DNC, and made and solicited contributions to the DNC, for the purpose of giving support and advocacy in a legal manner in favor of the election of a candidate for President of the United States.

203. Defendants agreed with each other and with other parties, including Russian government officials and WikiLeaks, to publicly disclose on the Internet private email communications that were stolen, or hacked, from the DNC for the purpose of influencing the 2016 presidential election.

204. Defendants and their co-conspirators knew that the hacked DNC emails were private and intended to publicly disclose the private emails.

205. Defendants and their co-conspirators knew, were plainly indifferent to the fact, or consciously disregarded the foreseeable risk that the hacked DNC emails contained private facts about Plaintiffs and other individuals similarly situated.

206. In furtherance of the scheme, one or more conspirators published on the Internet hacked DNC emails containing private facts about Plaintiffs and others, including information regarding sexual orientation, personal health matters, social security numbers, credit cards, personal relationships, banking relationships, home addresses, and telephone numbers, as well as information about Plaintiffs' lawful support and advocacy for a candidate for President.

Defendants further conspired with other parties to draw attention to the disseminated DNC emails containing Plaintiffs' private information.

207. In so doing, and by exposing Plaintiffs to significant harm as a result of their prior activities in support of a candidate for President, Defendants conspired to prevent by intimidation Plaintiffs and others like them from giving their support or advocacy in a legal manner for a candidate for President of the United States.

208. In so doing, Defendants conspired to injure Plaintiffs and others like them in their persons and property on account of their support or advocacy in a legal manner for a candidate for President of the United States.

209. As a natural and foreseeable result of the conspiracy, Plaintiffs were injured in their persons and property.

210. As a natural and foreseeable result of the conspiracy, Plaintiffs have been deprived of the ability to exercise rights and privileges of citizens of the United States.

PRAYER FOR RELIEF

Wherefore, Plaintiffs respectfully pray that this Court:

- a) Issue judgment in favor of Plaintiffs.
- b) Award compensatory and consequential damages as proven at trial, and in an amount over \$75,000, to compensate Plaintiffs for the injuries they suffered.
- c) Award punitive damages as just and proper in light of Defendants' outrageous and malicious conduct and to deter such egregious conduct from being committed in the future.

- d) Require Defendants to disgorge any profits they obtained through their involvement in the conspiracy, including gains from their financial relationships with Russian actors and financial benefits accruing to them from Russia's intervention in the election.
- e) Award Plaintiffs costs and reasonable attorneys' fees.
- f) Provide such other relief as the Court deems just and proper.

JURY DEMAND

Pursuant to Federal Rule of Civil Procedure 38, Plaintiffs demand a jury trial of all issues so triable.

Date: July 12, 2017

/s/ Benjamin L. Berwick

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Counsel for Plaintiffs

EXHIBIT C

**The Protect -
Democracy
Project**

February 15, 2017

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U.S. Department of Homeland Security
245 Murray Lane SW
STOP-0655
Washington, D.C. 20528-0655

Dr. James V.M.L. Holzer
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Jill Eggleston
FOIA Officer, U.S. Citizenship & Immigration Service
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National Records Center, FOIA/PA Office
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Lee's Summit, MO 64064-8010
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Sabrina Burroughs
FOIA Officer, U.S. Customs & Border Protection
Department of Homeland Security
MS 1181

1300 Pennsylvania Avenue, NW
Washington, DC 20229-1181
Via online request at <https://foia.cbp.gov/palMain.aspx>

Re: Freedom of Information Act Request

Dear Official:

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. 552, The Protect Democracy Project hereby requests that your office produce within 20 business days the following records (see below for clarity on the types of records sought):

- 1) All letters, correspondence, memoranda or other written communications (or memoranda memorializing oral communications) from Donald Trump, Mike Pence, Steven Bannon, Stephen Miller, or any representative of the Trump transition team or the Trump White House since November 9, 2016 requesting, seeking, demanding or directing an investigation by the Department of Homeland Security or any of its components into alleged voter fraud;
- 2) All letters, correspondence, memoranda or other written communication by any employee or official of the Department of Homeland Security drafted for or sent to President-Elect Trump, President Trump or any representative of the Trump transition team or the Trump White House in response to any such request, demand or directive as described in request number (1) above;
- 3) All letters, correspondence, memoranda or other written communications (or memoranda memorializing oral communications) from any other source, including Members of Congress or any unsuccessful candidate for national office seeking or requesting an investigation into alleged voter fraud in connection with any election for national office held on or about November 8, 2016;
- 4) All documentation of alleged voter fraud in the national elections supplied by any person requesting or seeking an investigation in connection with any election for national office held on or about November 8, 2016 as described in request number (3) above;
- 5) All letters, correspondence, memoranda or written communication (including memoranda memorializing oral communications) by any employee or official of the Department of Homeland Security drafted or sent to any person, including any Member of Congress or any unsuccessful candidate for national office, in response to any such request or demand as described in request number (3) above;
- 6) All letters, correspondence, memoranda or other written communication documenting or relating to any inquiry by any employee or official of the Department of Homeland Security to any Secretary of State or other election

official of any state or the District of Columbia relating or referring to allegations of voter fraud in the national elections of November 8, 2016 and any responses thereto from such Secretary of State or election official to such an inquiry;

- 7) All formal or informal documents, including memoranda, spread sheets or other tabulations, calculating or estimating the financial costs and expenditure of resources, including but not limited in terms of manpower and employee time, that would be required to pursue any requested or directed investigation into alleged voter fraud in the national elections of November 2016, including any analysis of other work or investigations by the Department or any component of it that would have to be cancelled or deferred to pursue such an investigation;
- 8) All letters, correspondence, memoranda or other written communications to the Federal Bureau of Investigation or any other federal government investigative agency relating or referring to any investigation of alleged voter fraud in the national elections of November, 2016;
- 9) Any studies, reports, analyses or compilation of statistics, whether by a governmental agency or private person or entity, referring or relating to alleged voter fraud in the national elections of November, 2016, including but not limited to any document or report that claims that there were millions of illegal votes cast in the Presidential election of November, 2016;
- 10) All written communications or memoranda from any employee, official or agent of the Department of Homeland Security or any of its components analyzing or commenting upon the utility of commencing or pursuing an investigation into allegations of voter fraud in connection with the national elections of November, 2016;

FEE WAIVER

FOIA provides that a waiver of fees associated with a request is waived 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(1)(4)(A)(iii). The core mission of The Protect Democracy Project, a new organization awaiting 501(c)(3) status, is to inform public understanding on operations and activities of the government. This request is submitted in consort with the organization’s mission to

gather and disseminate information that is likely to contribute significantly to the public understanding of executive branch operations and activities. The Protect Democracy Project has no commercial interest, and releasing the contents of the requested documents for public consumption is not in the financial interest of the organization.

In addition to satisfying requirements for a waiver of fees associated with the search and processing of records, The Protect Democracy Project is entitled to a waiver in duplication costs. Federal law mandates a waiver of document duplication costs for requesters that qualify as a representative of the news media. The Protect Democracy Project, a new organization formed in December 2016, emerges in the tradition of 501(c)(3) good government organizations that qualify under FOIA as “news media organizations.” Like these organizations, the purpose of The Protect Democracy Project is to “gather information of potential interest to a segment of the public, use its editorial skills to turn the raw materials into distinct work, and distribute that work to an audience.” Cf *National Security Archive v. Department of Defense*, 880 F.2d 1381, 1387 (D.C. Cir. 1989). We intend to give the public access to documents transmitted via FOIA on our forthcoming website, www.protectdemocracyproject.org.

RESPONSIVE RECORDS

We ask that all types of records and all record systems be searched to discover records responsive to our request. We seek records in all medium and format. This includes, but is not limited to: agendas, manifests, calendars, schedules, notes, and any prepared documentation for meetings, calls, tele-conferences, or otherwise discussions responsive to our request; voicemails; e-mails; e-mail attachments; talking points; faxes; facsimiles; training documents and guides; table of contents and content of binders;

documents pertaining to instruction and coordination of couriers; and any other preservation of work product. We ask that you search all system of record, including electronic, in use at your agency. The Protect Democracy Project would prefer records in electronic format, saved as PDF documents, and transmitted via email or CD-rom.

If you make a determination that any responsive record, or any segment within a record, is exempt from disclosure, we ask that you provide an index of those records at the time you transmit all other responsive records. In the index, please include a description of the record and the reason for exclusion with respect to each individual exempt record or exempt portion of a record, as provided by *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973), cert. denied, 415 U.S. 977 (1974). When you deem a portion of a record exempt, we ask for the remainder of the record to be provided. 5 U.S.C. 552(b).

Given the 20-day statutory deadline, we hope to be as helpful as possible in clarifying or answering questions about our request. Please contact us at FOIA.protectdemocracy@gmail.com or (404) 819-1630 if you require any additional information. We appreciate your cooperation, and look forward to hearing from you very soon.

Sincerely,



Ian Bassin
Executive Director
The Protect Democracy Project



February 15, 2017

FOIA/PA Mail Referral Unit
Department of Justice
Room 115
LOC Building
Washington, DC 20530-0001
Phone: (202) 616-3837
E-mail: MRUFOIA.Requests@usdoj.gov

Laurie Day
Chief, Initial Staff Request
Office of the Attorney General
Suite 11050
1425 New York Avenue, NW
Washington, DC 20530-001

Re: Freedom of Information Act Request

Dear Official:

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. 552, The Protect Democracy Project hereby requests that your office produce within 20 business days the following records (see below for clarity on the types of records sought):

- 1) Copies of all complaints filed and judgments obtained by the Department of Justice or any of its components, including U.S. Attorney's offices, relating or referring to allegations of voter fraud in any election for national office from 1980 through the present; and
- 2) All reports, studies and analyses prepared by or for the Department of Justice or any of its components describing any efforts by the Department and the results of those efforts from 1980 through the present to seek out, investigate and/or prosecute allegations of voter fraud in national or state elections, including but not limited to the Inspector General's report on the firings of several United States Attorneys in the second term of the administration of President George W. Bush.

FEE WAIVER

PO Box 170521, Brooklyn, New York 11217
FOIA.protectdemocracy@gmail.com

FOIA provides that a waiver of fees associated with a request is waived 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(1)(4)(A)(iii). The core mission of The Protect Democracy Project, a new organization awaiting 501(c)(3) status, is to inform public understanding on operations and activities of the government. This request is submitted in consort with the organization’s mission to gather and disseminate information that is likely to contribute significantly to the public understanding of executive branch operations and activities. The Protect Democracy Project has no commercial interest, and releasing the contents of the requested documents for public consumption is not in the financial interest of the organization.

In addition to satisfying requirements for a waiver of fees associated with the search and processing of records, The Protect Democracy Project is entitled to a waiver in duplication costs. Federal law mandates a waiver of document duplication costs for requesters that qualify as a representative of the news media. The Protect Democracy Project, a new organization formed in December 2016, emerges in the tradition of 501(c)(3) good government organizations that qualify under FOIA as “news media organizations.” Like these organizations, the purpose of The Protect Democracy Project is to “gather information of potential interest to a segment of the public, use its editorial skills to turn the raw materials into distinct work, and distribute that work to an audience.” Cf *National Security Archive v. Department of Defense*, 880 F.2d 1381, 1387 (D.C. Cir. 1989). We intend to give the public access to documents transmitted via FOIA on our forthcoming website, www.protectdemocracyproject.org.

RESPONSIVE RECORDS

We ask that all types of records and all record systems be searched to discover records responsive to our request. We seek records in all medium and format. This includes, but is not limited to: agendas,

manifests, calendars, schedules, notes, and any prepared documentation for meetings, calls, teleconferences, or otherwise discussions responsive to our request; voicemails; e-mails; e-mail attachments; talking points; faxes; facsimiles; training documents and guides; table of contents and content of binders; documents pertaining to instruction and coordination of couriers; and any other preservation of work product. We ask that you search all system of record, including electronic, in use at your agency. The Protect Democracy Project would prefer records in electronic format, saved as PDF documents, and transmitted via email or CD-rom.

If you make a determination that any responsive record, or any segment within a record, is exempt from disclosure, we ask that you provide an index of those records at the time you transmit all other responsive records. In the index, please include a description of the record and the reason for exclusion with respect to each individual exempt record or exempt portion of a record, as provided by *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973), cert. denied, 415 U.S. 977 (1974). When you deem a portion of a record exempt, we ask for the remainder of the record to be provided. 5 U.S.C. 552(b).

Given the 20-day statutory deadline, we hope to be as helpful as possible in clarifying or answering questions about our request. Please contact us at FOIA.protectdemocracy@gmail.com or (404) 819-1630 if you require any additional information. We appreciate your cooperation, and look forward to hearing from you very soon.

Sincerely,



Ian Bassin
Executive Director
The Protect Democracy Project

BRENNAN
CENTER
FOR JUSTICE
TWENTY
YEARS

The **Protect -**
Democracy
Project 

at New York University School of Law

Via Certified Mail and Electronic Submission

May 17, 2017

Jonathan Cantor
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

Re: Freedom of Information Act Request, Request for Expedited Processing and Fee Waiver

Dear Mr. Cantor:

This is a request to the Department of Homeland Security under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552. It is also a request for expedited processing under 5 U.S.C. § 552(a)(6)(E) and 6 C.F.R. § 5.5(e), and for a fee waiver under 5 U.S.C. §§ 552(a)(4)(A)(ii) & (iii) and 6 C.F.R. § 5.11.

I. Background

President Trump issued Executive Order 13799, creating a “Presidential Advisory Commission on Election Integrity” (the “Commission”), supposedly “to promote fair and honest Federal elections.” According to the Executive Order, the Commission shall “study the registration and voting processes used in Federal elections... and shall submit a report to the President that identifies... those laws, rules, policies, activities, strategies, and practices” that either “enhance” or “undermine... the American people’s confidence in the integrity of the voting processes used in Federal elections;” and “those vulnerabilities in voting systems and practices used for Federal elections that could lead to improper voter registrations and improper voting, including fraudulent voter registrations and fraudulent voting.”

The Commission is chaired by the Vice President of the United States and, per the Executive Order, “shall be informed by, and shall strive to avoid duplicating, the efforts of existing government entities.”

The Order also provides for “staff to provide support for [the Commission’s] functions.” Further, “subject to the availability of appropriations, the General Services Administration shall provide the Commission with such administrative services, funds, facilities, staff, equipment, and other support services as may be necessary to carry out its mission on a reimbursable basis.”

II. Formal Request

The Brennan Center for Justice at NYU School of Law and The Protect Democracy Project request, to the extent the following are in the possession, custody, or control of the Department of Homeland Security:

1. All communications, including but not limited to emails and memoranda, between any Department of Homeland Security (“DHS” or “Department”) officer, employee, or agent, or any White House liaison to DHS, and any other person, including but not limited to any officer, employee, or agent of the White House or DHS, or any member of the presidential transition team or the presidential campaign of Donald Trump, regarding the Presidential Advisory Commission on Election Integrity or any other effort since November 8, 2016 to establish a commission, task force, or committee to study voter fraud or any aspect of the voting system.
2. All communications, including but not limited to emails and memoranda, between any DHS officer, employee, or agent, or any White House liaison to DHS, and any member of the Presidential Advisory Commission on Election Integrity, other than Vice President Michael Pence, since November 8, 2016.¹
3. All documents relating to the Presidential Advisory Commission on Election Integrity or any other effort since November 8, 2016 to establish a commission, task force, or committee to study voter fraud or any aspect of the voting system, including all documents discussing or making reference to the following subjects:
 - a) The Executive Order creating the Presidential Advisory Commission on Election Integrity;

¹ According to a public announcement from the White House, the following individuals are currently members of the Presidential Advisory Commission on Election Integrity: Vice President Michael Pence, Kansas Secretary of State Kris Kobach, Indiana Secretary of State Connie Lawson, New Hampshire Secretary of State William Gardner, Maine Secretary of State Matthew Dunlap, former Ohio Secretary of State J. Kenneth Blackwell, and EAC Commissioner Christy McCormick. The White House, Office of the Press Secretary, President Announces Formation of Bipartisan Presidential Commission on Election Integrity, May 11, 2017, <https://www.whitehouse.gov/the-press-office/2017/05/11/president-announces-formation-bipartisan-presidential-commission>.

- b) The reasons for forming the Presidential Advisory Commission on Election Integrity;
- c) The goals and mission of the Presidential Advisory Commission on Election Integrity;
- d) The membership of the Presidential Advisory Commission on Election Integrity, including the criteria for selection of its members; and
- e) The staffing of the Presidential Advisory Commission on Election Integrity, including job descriptions, organization charts, and criteria for hiring.

Definitions

As used in this request—

“*Collaborative Work Environment*” means a platform used to create, edit, review, approve, store, organize, share, and access documents and information by and among authorized users, potentially in diverse locations and with different devices. Collaborative Work Environments include Google Docs sites, Microsoft SharePoint sites, eRooms, document management systems (e.g., iManage), intranets, web content management systems (CMS) (e.g., Drupal), wikis, and blogs.

“*Communications*” means disclosure, transfer, or exchange of information or opinion, however made, including any transmission of information by oral, graphic, written, pictorial, electronic, or other perceptible means.

“*Documents*” means all written, printed, or electronically stored information of any kind in the possession, custody, or control of DHS, including information stored on social media accounts like Twitter or Facebook, chats, instant messages, and documents contained in Collaborative Work Environments and other document databases. The term includes agreements; letters; telegrams; inter-office communications; memoranda; reports; records; instructions; notes; notebooks; diaries; plans; diagrams; photographs; photocopies; charts; descriptions; drafts, whether or not they resulted in a final document; agendas and minutes of meetings, conferences, and telephone or other conversations or communications; recordings; published or unpublished speeches or articles; publications; transcripts of telephone conversations; phone mail; electronic-mail; and computer print-outs.

“*Including*” means including, but not limited to.

“*Presidential Advisory Commission on Election Integrity*” means the commission created pursuant to the Executive Order on “Establishment of Presidential Advisory Commission on Election Integrity,” signed by President Donald Trump on May 11, 2017, or any effort to establish any task force, commission, or committee, whether through a government

agency or not, to investigate voter fraud, vote suppression, or any other aspect of the voting system.

We request that responsive electronic records be provided electronically, in a text-searchable, static-image (PDF) format (in the best image quality available to the agency), pursuant to 5 U.S.C. § 552(a)(3)(A)(B) and (C).

III. Application for Expedited Processing

The Brennan Center and The Protect Democracy Project request expedited processing pursuant to 5 U.S.C. § 552(a)(6)(E) and 6 C.F.R. § 5.5(e). This request meets the criteria for expedited processing because there is “[a]n urgency to inform the public about an actual or alleged Federal Government activity, if made by a person who is primarily engaged in disseminating information;” and this request concerns “[a] matter of widespread and exceptional media interest in which there exist possible questions about the government’s integrity which affect public confidence.” 6 C.F.R. § 5.5(e)(1)(ii) and (iv). As explained below in more detail in the section of this request regarding a fee waiver, the Brennan Center and The Protect Democracy Project intend to disseminate the information obtained in response to this request to enable the public to effectively monitor, evaluate, participate in, and respond to the work of the Commission, which is scheduled to begin immediately.

The Brennan Center and The Protect Democracy Project are section 501(c)(3) non-profit organizations that are “primarily engaged in disseminating information” within the meaning of 5 U.S.C. § 552(a)(6)(E)(v)(II) and 6 C.F.R. § 5.5(e)(1)(ii). The United States District Court for the District of Columbia has found that a 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” is “primarily engaged in disseminating information” within the meaning of the statute and regulations. *Am. Civil Liberties Union v. Dep’t of Justice*, 321 F. Supp. 2d 24, 29 n.5 (D.D.C. 2004) (quoting *Elec. Privacy Info. Ctr. v. Dep’t of Def.*, 241 F. Supp. 2d 5, 11 (D.D.C. 2003)). The Brennan Center regularly writes and publishes reports and newspaper articles and makes appearances on various media outlets regarding the fight to preserve and expand the right to vote for every eligible citizen. Through practical policy proposals, litigation, advocacy, and communications, the Brennan Center works to ensure that voting is free, fair, and accessible for all Americans.²

The core mission of The Protect Democracy Project, a new organization awaiting 501(c)(3) status, is to inform public understanding on operations and activities of the government. This request is submitted in accordance with the organization’s mission to gather and disseminate information that is likely to contribute significantly to the public understanding of executive branch operations and activities. The Protect Democracy Project has no commercial interests.

² A list of the Brennan Center’s recent publications is available at <http://www.brennancenter.org/content/resources/publications>.

Furthermore, the Brennan Center and The Protect Democracy Project urgently require the information sought by this request in order to inform the public of federal government activity. *See* 5 U.S.C. § 552(a)(6)(E)(v)(II); 6 C.F.R. § 5.5(e)(1)(ii). The information requested herein concerns federal government activity with regard to the conduct and integrity of federal elections, which is at the core of the missions for both the Department and the newly established Commission. This information is of vital interest to the general public. Both the Commission and the issue of voter fraud have generated extensive public interest and media coverage, reflecting the public’s urgent concern about election integrity. The Brennan Center and The Protect Democracy Project intend to share any new information about the Commission and the integrity of federal elections obtained from this request with the public. The Commission’s charge includes recommending changes to the nation’s “laws, rules, policies, activities, strategies, and practices” regarding voting—all of which are of critical importance to the public and the integrity of American democracy, as well as to the missions of the Brennan Center for Justice and The Protect Democracy Project.

In order to adequately inform the public and to monitor the Commission, the Brennan Center and The Protect Democracy Project need this information expeditiously. According to news reports, the Commission will begin its work shortly,³ and according to the White House’s official announcement, a final report will be submitted to the President next year.⁴ Before this summer, the Commission will likely name additional members (fewer than half of a possible total of fifteen are currently named), hire staff, and establish a meeting and hearing calendar, as provided for in the Executive Order. The information sought in this request is critical for the public’s monitoring and evaluation of and response to those immediate activities. The information is also critical to public evaluation and monitoring of the Commission’s work, to pursue its mission of determining which “laws, rules, policies, activities, strategies, and practices” enhance or undermine public confidence in elections and what vulnerabilities exist in America’s voting systems—work which the Commission plans to begin expeditiously. Effective public monitoring and involvement is urgently needed given the importance of the topics the Commission is charged with addressing.

³ *See* Ali Vitali, Peter Alexander, & Kelly O’Donnell, *Trump Establishes Voter Fraud Commission*, NBC NEWS, May 11, 2017, <http://www.nbcnews.com/politics/white-house/trump-establish-vote-fraud-commission-n757796>; Jenna Johnson & John Wagner, *White House launches a commission to study voter fraud and suppression*, WASH. POST, May 11, 2017, https://www.washingtonpost.com/news/post-politics/wp/2017/05/11/white-house-to-launch-a-commission-to-study-voter-fraud-and-suppression/?utm_term=.a495285c5a69; Pam Fessler, *Despite Little Evidence of Fraud, White House Launches Voting Commission*, NAT’L PUB. RADIO, May 11, 2017, <http://www.npr.org/2017/05/11/527924633/white-house-expected-to-announce-voting-fraud-commission>; DEBORAH BARRY & DAVID JACKSON, *Trump orders “voter fraud” commission as FBI firing fallout lingers*, USA Today, May 11, 2017, <https://www.usatoday.com/story/news/politics/2017/05/11/donald-trump-voter-fraud-mike-pence-kris-kobach/101544112/>.

⁴ The White House, Office of the Press Secretary, *President Announces Formation of Bipartisan Presidential Commission on Election Integrity*, May 11, 2017, <https://www.whitehouse.gov/the-press-office/2017/05/11/president-announces-formation-bipartisan-presidential-commission>.

IV. Application for Waiver or Limitation of All Fees

The Brennan Center requests a waiver of all search, review, and duplication fees associated with this request. The Brennan Center is eligible for a waiver of search and review fees pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II) and 6 C.F.R. § 5.11(k), and for a waiver of all fees, including duplication fees, pursuant to 5 U.S.C. § 552(a)(4)(A)(iii) and 6 C.F.R. § 5.11(k).

First, the Brennan Center plans to analyze, publish, and publicly disseminate information obtained from this request. The requested records are not sought for commercial use and will be disclosed to the public at no cost.

Second, the Brennan Center qualifies as a “representative of the news media” for the same reasons that it is “primarily engaged in dissemination of information,” i.e., because the Brennan Center “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); *Nat’l Sec. Archive v. Dep’t of Def.*, 880 F.2d 1381, 1387 (D.C. Cir. 1989). The Brennan Center has released dozens of publications regarding voting issues in the form of reports and papers on various issues of public importance. *Cf. Elec. Privacy Info. Ctr.*, 241 F. Supp. 2d at 11-12 (finding that the Electronic Privacy Information Center was representative of the news media based on its publication of seven books about national and international policies relating to privacy and civil rights); *see also Nat’l Sec. Archive*, 880 F.2d at 1386 (deeming the National Security Archive a representative of the news media after it published one book and indicated its intention to publish a set of documents on national and international politics and nuclear policy). The Brennan Center is therefore entitled to a waiver of search and review fees pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II) and 28 C.F.R. § 16.10(k).

As a noncommercial requester, the Brennan Center also qualifies for waivers as an “educational institution” pursuant to 6 C.F.R. § 5.11. The Brennan Center qualifies as an educational institution because it is affiliated with the NYU School of Law, which is plainly an educational institution. *See also Nat’l Sec. Archive v. Dep’t of Def.*, 880 F.2d 1381 (D.C. Cir. 1989).

The Brennan Center is also entitled to a waiver of all fees, including duplication fees, pursuant to 5 U.S.C. § 552(a)(4)(A)(iii) and 6 C.F.R. § 5.11(k). First, the subject of the requested records clearly concerns “the operations or activities of the federal government.” This request seeks records and information concerning federal government activity because the materials requested concern allegations by the President of voter fraud in the conduct of federal elections and proposed changes to federal law. This connection to the federal government is “direct and clear, not remote or attenuated.” Disclosure of the requested records is therefore in the public interest because it is likely to contribute significantly to public understanding of how the government is regulating

elections, which is plainly of interest to the public. Disclosure will significantly enhance the public's understanding of this subject.

Moreover, disclosure is not primarily in the Brennan Center's commercial interests. As stated above, the Brennan Center plans to make any information disclosed as a result of this request available to the public at no cost. A fee waiver would therefore fulfill Congress's legislative intent that FOIA be "liberally construed in favor of waivers for noncommercial requesters." *McClellan Ecological Situation v. Carlucci*, 835 F.2d 1282, 1284 (9th Cir. 1987) (quoting 132 CONG. REC. 27, 190 (1986) (Statement of Sen. Leahy)).

In the event you deny our waiver request, please contact us if you expect the costs to exceed the amount of \$500.00.

V. Response Requested in 10 Days

Your attention to this request is appreciated, and the Brennan Center and The Protect Democracy Project will anticipate your determination regarding our request for expedited processing within ten (10) calendar days. *See* 5 U.S.C. § 552(a)(6)(E)(ii)(I); 6 C.F.R. § 5.5(e)(4). 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).

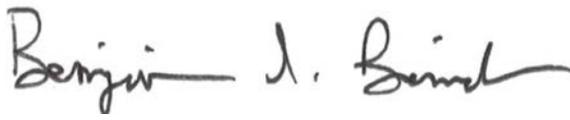
We also request that you provide us with an estimated completion date, as required by 5 U.S.C. § 552(a)(7)(B)(ii). If the request is denied in whole or in part, we ask that you justify all deletions by reference to specific exemptions to FOIA. We expect the release of all segregable portions of otherwise exempt material. We reserve the right to appeal a decision to withhold any information or to deny a waiver of fees.

Please furnish all applicable records to:

Wendy R. Weiser
Director, Democracy Program
Brennan Center for Justice at NYU School of Law
120 Broadway, Suite 1750
New York, NY 10271
(646) 292-8310
www.brennancenter.org

Should you have any questions regarding this request, please contact Ms. Weiser at the address above, by telephone at (646) 292-8310, or by e-mail at weiserw@brennan.law.nyu.edu; or Ben Berwick by email at ben.berwick@protectdemocracy.org.

Sincerely,



Ben Berwick, Counsel
The Protect Democracy Project



Wendy Weiser, Director
Adam Gitlin, Counsel
Tomas Lopez, Counsel
Democracy Program
Brennan Center for Justice at NYU School
of Law
120 Broadway, Suite 1750
New York, New York 10271

BRENNAN
CENTER
FOR JUSTICE
TWENTY
YEARS

The **Protect -**
Democracy
Project 

at New York University School of Law

Via Certified Mail and Electronic Submission

May 15, 2017

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

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Melissa Golden
Lead Paralegal and FOIA Specialist
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Department of Justice
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Washington, DC 20530-0001

Re: Freedom of Information Act Request, Request for Expedited Processing and Fee Waiver

Dear Ms. Day, Mr. Hermilla, and Ms. Golden:

This is a request under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552. It is also a request for expedited processing under 5 U.S.C. § 552(a)(6)(E) and 28 C.F.R. § 16.5(e)(1), and for a fee waiver under 5 U.S.C. § 552(a)(4)(A)(ii) & (iii) and 28 C.F.R. § 16.5(k).

I. Background

President Trump issued an Executive Order creating a “Presidential Advisory Commission on Election Integrity” (the “Commission”), supposedly “to promote fair and honest Federal elections.” According to the Executive Order, the Commission shall “study the registration and voting processes used in Federal elections... and shall submit a report to the President that identifies the following:

“(a) those laws, rules, policies, activities, strategies, and practices that enhance the American people’s confidence in the integrity of the voting processes used in Federal elections;

“(b) those laws, rules, policies, activities, strategies, and practices that undermine the American people’s confidence in the integrity of the voting processes used in Federal elections; and

“(c) those vulnerabilities in voting systems and practices used for Federal elections that could lead to improper voter registrations and improper voting, including fraudulent voter registrations and fraudulent voting.”

II. Formal Request

The Brennan Center for Justice at NYU School of Law and The Protect Democracy Project request, to the extent the following are in the possession, custody, or control of the Office of Legal Counsel, Office of Legal Policy, Civil Rights Division, Office of the Deputy Attorney General, Office of the Associate Attorney General, or Office of the Attorney General:

1. All communications, including but not limited to emails and memoranda, between any Department of Justice (“DOJ” or “Department”) officer, employee, or agent, or any White House liaison to the Department, and any other person, including but not limited to any officer, employee, or agent of the White House or DOJ, or any member of the presidential transition team or the presidential campaign of Donald Trump, regarding the Presidential Advisory Commission on Election Integrity or any other effort since November 8, 2016 to establish a commission, task force, or committee to study voter fraud or any aspect of the voting system.

2. All communications, including but not limited to emails and memoranda, between any Department officer, employee, or agent, or any White House liaison to the Department, and any member of the Presidential Advisory Commission on Election Integrity, other than Vice President Michael Pence, since November 8, 2016.¹

¹ According to a public announcement from the White House, the following individuals are currently members of the Presidential Advisory Commission on Election Integrity: Vice President Mike Pence, Kansas Secretary of State Kris Kobach, Indiana Secretary of State Connie Lawson, New Hampshire Secretary of State William Gardner, Maine Secretary of State Matthew Dunlap, former Ohio Secretary of State J. Kenneth Blackwell, and EAC Commissioner Christy McCormick. The White House, Office of the

3. All documents relating to the Presidential Advisory Commission on Election Integrity or any other effort since November 8, 2016 to establish a commission, task force, or committee to study voter fraud or any aspect of the voting system, including all documents discussing or making reference to the following subjects:

- a) The Executive Order creating the Presidential Advisory Commission on Election Integrity;
- b) The reasons for forming the Presidential Advisory Commission on Election Integrity;
- c) The goals and mission of the Presidential Advisory Commission on Election Integrity; and
- d) The membership of the Presidential Advisory Commission on Election Integrity, including the criteria for selection of its members.

Definitions

As used in this request—

“*Collaborative Work Environment*” means a platform used to create, edit, review, approve, store, organize, share, and access documents and information by and among authorized users, potentially in diverse locations and with different devices. Collaborative Work Environments include Google Docs sites, Microsoft SharePoint sites, eRooms, document management systems (e.g., iManage), intranets, web content management systems (CMS) (e.g., Drupal), wikis, and blogs.

“*Communications*” means disclosure, transfer, or exchange of information or opinion, however made, including any transmission of information by oral, graphic, written, pictorial, electronic, or other perceptible means.

“*Documents*” means all written, printed, or electronically stored information of any kind in the possession, custody, or control of the Department, including information stored on social media accounts like Twitter or Facebook, chats, instant messages, and documents contained in Collaborative Work Environments and other document databases. The term includes agreements; letters; telegrams; inter-office communications; memoranda; reports; records; instructions; notes; notebooks; diaries; plans; diagrams; photographs; photocopies; charts; descriptions; drafts, whether or not they resulted in a final document; agendas and minutes of meetings, conferences, and telephone or other conversations or communications; recordings; published or unpublished speeches or articles; publications;

Press Secretary, President Announces Formation of Bipartisan Presidential Commission on Election Integrity, May 11, 2017, <https://www.whitehouse.gov/the-press-office/2017/05/11/president-announces-formation-bipartisan-presidential-commission>.

transcripts of telephone conversations; phone mail; electronic-mail; and computer print-outs.

“*Including*” means including, but not limited to.

“*Presidential Advisory Commission on Election Integrity*” means the commission created pursuant to the Executive Order on “Establishment of Presidential Advisory Commission on Election Integrity,” signed by President Donald Trump on May 11, 2017, or any effort to establish any task force, commission, or committee, whether through a government agency or not, to investigate voter fraud, vote suppression, or any other aspect of the voting system.

We request that responsive electronic records be provided electronically, in a text-searchable, static-image (PDF) format (in the best image quality available to the agency), pursuant to 5 U.S.C. § 552(a)(3)(A)(B) and (C).

III. Application for Expedited Processing

The Brennan Center and The Protect Democracy Project request expedited processing pursuant to 5 U.S.C. § 552(a)(6)(E) and 28 C.F.R. § 16.5(e)(1)(ii), (iv). This request meets the criteria for expedited processing because there is “[a]n urgency to inform the public about an actual or alleged Federal Government activity, if made by a person who is primarily engaged in disseminating information;” and this request concerns “[a] matter of widespread and exceptional media interest in which there exist possible questions about the government’s integrity that could affect public confidence.” 28 C.F.R. § 16.5(e)(1)(ii) and (iv). As explained below in more detail in the section of this request regarding a fee waiver, the Brennan Center and The Protect Democracy Project intend to disseminate the information obtained in response to this request to enable the public to effectively monitor, evaluate, participate in, and respond to the work of the Commission, which is scheduled to begin immediately.

The Brennan Center and The Protect Democracy Project are section 501(c)(3) non-profit organizations that are “primarily engaged in disseminating information” within the meaning of 5 U.S.C. § 552(a)(6)(E)(v)(II) and 28 C.F.R. § 16.5(e)(1)(ii). The United States District Court for the District of Columbia has found that a 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” is “primarily engaged in disseminating information” within the meaning of the statute and regulations. *Am. Civil Liberties Union v. Dep’t of Justice*, 321 F. Supp. 2d 24, 29 n.5 (D.D.C. 2004) (quoting *Elec. Privacy Info. Ctr. v. Dep’t of Def.*, 241 F. Supp. 2d 5, 11 (D.D.C. 2003)). The Brennan Center regularly writes and publishes reports and newspaper articles and makes appearances on various media outlets regarding the fight to preserve and expand the right to vote for every eligible citizen. Through

practical policy proposals, litigation, advocacy, and communications, the Brennan Center works to ensure that voting is free, fair, and accessible for all Americans.²

The core mission of The Protect Democracy Project, a new organization awaiting 501(c)(3) status, is to inform public understanding on operations and activities of the government. This request is submitted in accordance with the organization's mission to gather and disseminate information that is likely to contribute significantly to the public understanding of executive branch operations and activities. The Protect Democracy Project has no commercial interests.

Furthermore, the Brennan Center and The Protect Democracy Project urgently require the information sought by this request in order to inform the public of federal government activity. *See* 5 U.S.C. § 552(a)(6)(E)(v)(II); 28 C.F.R. § 16.5(e)(1)(ii). The information requested herein concerns federal government activity with regard to the conduct and integrity of federal elections, which is at the core of the missions for both the Department and the newly established Commission. This information is of vital interest to the general public. Both the Commission and the issue of voter fraud have generated extensive public interest and media coverage, reflecting the public's urgent concern about election integrity. The Brennan Center and The Protect Democracy Project intend to share any new information about the Commission and the integrity of federal elections obtained from this request with the public. The Commission's charge includes recommending changes to the nation's "laws, rules, policies, activities, strategies, and practices" regarding voting—all of which are of critical importance to the public and the integrity of American democracy, as well as to the missions of the Brennan Center for Justice and The Protect Democracy Project.

In order to adequately inform the public and to monitor the Commission, the Brennan Center and The Protect Democracy Project need this information expeditiously. According to news reports, the Commission will begin its work shortly,³ and according to the White House's official announcement, a final report will be submitted to the President next year.⁴ Before this summer, the Commission will likely name additional members (fewer than half of a possible total of fifteen are currently named), hire staff, and

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³ *See* Ali Vitali, Peter Alexander, & Kelly O'Donnell, *Trump Establishes Voter Fraud Commission*, NBC NEWS, May 11, 2017, <http://www.nbcnews.com/politics/white-house/trump-establish-vote-fraud-commission-n757796>; Jenna Johnson & John Wagner, *White House launches a commission to study voter fraud and suppression*, WASH. POST, May 11, 2017, https://www.washingtonpost.com/news/post-politics/wp/2017/05/11/white-house-to-launch-a-commission-to-study-voter-fraud-and-suppression/?utm_term=.a495285c5a69; Pam Fessler, *Despite Little Evidence of Fraud, White House Launches Voting Commission*, NAT'L PUB. RADIO, May 11, 2017, <http://www.npr.org/2017/05/11/527924633/white-house-expected-to-announce-voting-fraud-commission>; DEBORAH BARRY & DAVID JACKSON, *Trump orders "voter fraud" commission as FBI firing fallout lingers*, USA Today, May 11, 2017, <https://www.usatoday.com/story/news/politics/2017/05/11/donald-trump-voter-fraud-mike-pence-kris-kobach/101544112/>.

⁴ The White House, Office of the Press Secretary, *President Announces Formation of Bipartisan Presidential Commission on Election Integrity*, May 11, 2017, <https://www.whitehouse.gov/the-press-office/2017/05/11/president-announces-formation-bipartisan-presidential-commission>.

establish a meeting and hearing calendar, as provided for in the Executive Order. The information sought in this request is critical for the public's monitoring and evaluation of and response to those immediate activities. The information is also critical to public evaluation and monitoring of the Commission's work, to pursue its mission of determining which "laws, rules, policies, activities, strategies, and practices" enhance or undermine public confidence in elections and what vulnerabilities exist in America's voting systems—work which the Commission plans to begin expeditiously. Effective public monitoring and involvement is urgently needed given the importance of the topics the Commission is charged with addressing.

IV. Application for Waiver or Limitation of All Fees

The Brennan Center requests a waiver of all search, review, and duplication fees associated with this request. The Brennan Center is eligible for a waiver of search and review fees pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II) and 28 C.F.R. § 16.10(k), and for a waiver of all fees, including duplication fees, pursuant to 5 U.S.C. § 552(a)(4)(A)(iii) and 28 C.F.R. § 16.10(k).

First, the Brennan Center plans to analyze, publish, and publicly disseminate information obtained from this request. The requested records are not sought for commercial use and will be disclosed to the public at no cost.

Second, the Brennan Center qualifies as a "representative of the news media" for the same reasons that it is "primarily engaged in dissemination of information," i.e., because the Brennan Center "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); *Nat'l Sec. Archive v. Dep't of Def.*, 880 F.2d 1381, 1387 (D.C. Cir. 1989). The Brennan Center has released dozens of publications regarding voting issues in the form of reports and papers on various issues of public importance. *Cf. Elec. Privacy Info. Ctr.*, 241 F. Supp. 2d at 11-12 (finding that the Electronic Privacy Information Center was representative of the news media based on its publication of seven books about national and international policies relating to privacy and civil rights); *see also Nat'l Sec. Archive*, 880 F.2d at 1386 (deeming the National Security Archive a representative of the news media after it published one book and indicated its intention to publish a set of documents on national and international politics and nuclear policy). The Brennan Center is therefore entitled to a waiver of search and review fees pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II) and 28 C.F.R. § 16.10(k).

As a noncommercial requester, the Brennan Center also qualifies for waivers as an "educational institution" pursuant to 28 C.F.R. § 16.10(d)(1). The Brennan Center qualifies as an educational institution because it is affiliated with the NYU School of Law, which is plainly an educational institution. *See also Nat'l Sec. Archive v. Dep't of Def.*, 880 F.2d 1381 (D.C. Cir. 1989).

The Brennan Center is also entitled to a waiver of all fees, including duplication fees, pursuant to 5 U.S.C. § 552(a)(4)(A)(iii) and 28 C.F.R. § 16.10(k). First, the subject of the requested records clearly concerns “the operations or activities of the federal government.” This request seeks records and information concerning federal government activity because the materials requested concern allegations by the President of voter fraud in the conduct of federal elections and proposed changes to federal law. This connection to the federal government is “direct and clear, not remote or attenuated.” Disclosure of the requested records is therefore in the public interest because it is likely to contribute significantly to public understanding of how the government is regulating elections, which is plainly of interest to the public. Disclosure will significantly enhance the public’s understanding of this subject.

Moreover, disclosure is not primarily in the Brennan Center’s commercial interests. As stated above, the Brennan Center plans to make any information disclosed as a result of this request available to the public at no cost. A fee waiver would therefore fulfill Congress’s legislative intent that FOIA be “liberally construed in favor of waivers for noncommercial requesters.” *McClellan Ecological Situation v. Carlucci*, 835 F.2d 1282, 1284 (9th Cir. 1987) (quoting 132 CONG. REC. 27, 190 (1986) (Statement of Sen. Leahy)).

In the event you deny our waiver request, please contact us if you expect the costs to exceed the amount of \$500.00.

V. Response Requested in 10 Days

Your attention to this request is appreciated, and the Brennan Center and The Protect Democracy Project will anticipate your determination regarding our request for expedited processing within ten (10) calendar days. *See* 5 U.S.C. § 552(a)(6)(E)(ii)(I); 28 C.F.R. § 16.5. 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).

We also request that you provide us with an estimated completion date, as required by 5 U.S.C. § 552(a)(7)(B)(ii). If the request is denied in whole or in part, we ask that you justify all deletions by reference to specific exemptions to FOIA. We expect the release of all segregable portions of otherwise exempt material. We reserve the right to appeal a decision to withhold any information or to deny a waiver of fees.

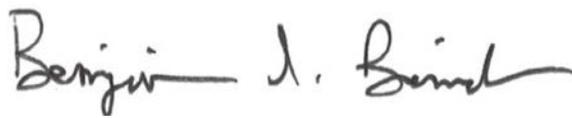
Please furnish all applicable records to:

Wendy R. Weiser
Director, Democracy Program
Brennan Center for Justice at NYU School of Law
120 Broadway, Suite 1750
New York, NY 10271
(646) 292-8310

www.brennancenter.org

Should you have any questions regarding this request, please contact Ms. Weiser at the address above, by telephone at (646) 292-8310, or by e-mail at weiserw@brennan.law.nyu.edu; or Ben Berwick by email at ben.berwick@protectdemocracy.org.

Sincerely,



Ben Berwick, Counsel
The Protect Democracy Project



Wendy Weiser, Director
Adam Gitlin, Counsel
Tomas Lopez, Counsel
Democracy Program
Brennan Center for Justice at NYU School
of Law
120 Broadway, Suite 1750
New York, New York 10271

BRENNAN
CENTER
FOR JUSTICE
TWENTY
YEARS

The **Protect -**
Democracy
Project 

at New York University School of Law

Via Certified Mail and Electronic Submission

May 17, 2017

U.S. General Services Administration
FOIA Requester Service Center (H1F)
1800 F Street, NW, Room 7308
Washington, DC 20405-0001

Re: Freedom of Information Act Request, Request for Expedited Processing and Fee Waiver

Dear Sir/Madam:

This is a request to the General Services Administration under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552. It is also a request for expedited processing under 5 U.S.C. § 552(a)(6)(E) and 41 C.F.R. § 105-60.402-2(c), and for a fee waiver under 5 U.S.C. §§ 552(a)(4)(A)(ii) & (iii) and 41 C.F.R. § 105-60.305-13.

I. Background

President Trump issued Executive Order 13799, creating a “Presidential Advisory Commission on Election Integrity” (the “Commission”), supposedly “to promote fair and honest Federal elections.” According to the Executive Order, the Commission shall “study the registration and voting processes used in Federal elections... and shall submit a report to the President that identifies... those laws, rules, policies, activities, strategies, and practices” that either “enhance” or “undermine the American people’s confidence in the integrity of the voting processes used in Federal elections;” and “those vulnerabilities in voting systems and practices used for Federal elections that could lead to improper voter registrations and improper voting, including fraudulent voter registrations and fraudulent voting.”

The Commission is chaired by the Vice President of the United States and, per the Executive Order, “shall be informed by, and shall strive to avoid duplicating, the efforts of existing government entities.”

The Order also provides for “staff to provide support for [the Commission’s] functions.” Further, “subject to the availability of appropriations, the General Services Administration shall provide the Commission with such administrative services, funds, facilities, staff, equipment, and other support services as may be necessary to carry out its mission on a reimbursable basis.”

II. Formal Request

The Brennan Center for Justice at NYU School of Law and The Protect Democracy Project request, to the extent the following are in the possession, custody, or control of the General Services Administration (“GSA”):

1. All communications, including but not limited to emails and memoranda, within the custody or control of GSA regarding the Presidential Advisory Commission on Election Integrity or any other effort since November 8, 2016 to establish a commission, task force, or committee to study voter fraud or any aspect of the voting system.
2. All communications, including but not limited to emails and memoranda, within the custody or control of GSA with any member of the Presidential Advisory Commission on Election Integrity, other than Vice President Michael Pence, since November 8, 2016.¹
3. All documents relating to the Presidential Advisory Commission on Election Integrity or any other effort since November 8, 2016 to establish a commission, task force, or committee to study voter fraud or any aspect of the voting system, including all documents discussing or making reference to the following subjects:
 - a) The Executive Order creating the Presidential Advisory Commission on Election Integrity;
 - b) The reasons for forming the Presidential Advisory Commission on Election Integrity;
 - c) The goals and mission of the Presidential Advisory Commission on Election Integrity;
 - d) The membership of the Presidential Advisory Commission on Election Integrity, including the criteria for selection of its members;

¹ According to a public announcement from the White House, the following individuals are currently members of the Presidential Advisory Commission on Election Integrity: Vice President Michael Pence, Kansas Secretary of State Kris Kobach, Indiana Secretary of State Connie Lawson, New Hampshire Secretary of State William Gardner, Maine Secretary of State Matthew Dunlap, former Ohio Secretary of State J. Kenneth Blackwell, and EAC Commissioner Christy McCormick. The White House, Office of the Press Secretary, President Announces Formation of Bipartisan Presidential Commission on Election Integrity, May 11, 2017, <https://www.whitehouse.gov/the-press-office/2017/05/11/president-announces-formation-bipartisan-presidential-commission>.

- e) The budget of the Presidential Advisory Commission on Election Integrity, including line items for salaries, research, travel, meetings, hearings, and public materials; and
- f) The staffing of the Presidential Advisory Commission on Election Integrity, including job descriptions, organization charts, and criteria for hiring.

Definitions

As used in this request—

“*Collaborative Work Environment*” means a platform used to create, edit, review, approve, store, organize, share, and access documents and information by and among authorized users, potentially in diverse locations and with different devices. Collaborative Work Environments include Google Docs sites, Microsoft SharePoint sites, eRooms, document management systems (e.g., iManage), intranets, web content management systems (CMS) (e.g., Drupal), wikis, and blogs.

“*Communications*” means disclosure, transfer, or exchange of information or opinion, however made, including any transmission of information by oral, graphic, written, pictorial, electronic, or other perceptible means.

“*Documents*” means all written, printed, or electronically stored information of any kind in the possession, custody, or control of GSA, including information stored on social media accounts like Twitter or Facebook, chats, instant messages, and documents contained in Collaborative Work Environments and other document databases. The term includes agreements; letters; telegrams; inter-office communications; memoranda; reports; records; instructions; notes; notebooks; diaries; plans; diagrams; photographs; photocopies; charts; descriptions; drafts, whether or not they resulted in a final document; agendas and minutes of meetings, conferences, and telephone or other conversations or communications; recordings; published or unpublished speeches or articles; publications; transcripts of telephone conversations; phone mail; electronic-mail; and computer print-outs.

“*Including*” means including, but not limited to.

“*Presidential Advisory Commission on Election Integrity*” means the commission created pursuant to the Executive Order on “Establishment of Presidential Advisory Commission on Election Integrity,” signed by President Donald Trump on May 11, 2017, or any effort to establish any task force, commission, or committee, whether through a government agency or not, to investigate voter fraud, vote suppression, or any other aspect of the voting system.

We request that responsive electronic records be provided electronically, in a text-searchable, static-image (PDF) format (in the best image quality available to the agency), pursuant to 5 U.S.C. § 552(a)(3)(A)(B) and (C).

III. Application for Expedited Processing

The Brennan Center and The Protect Democracy Project request expedited processing pursuant to 5 U.S.C. § 552(a)(6)(E) and 41 C.F.R. § 105-60.402-2(c). This request meets the criteria for expedited processing because “the information is urgently needed by an individual primarily engaged in disseminating information in order to inform the public concerning actual or alleged Federal Government activity,” and this request concerns “information [with] a particular value that will be lost if not disseminated quickly, such as a breaking news story or general public interest.” 41 C.F.R. § 105-60.402-2(c)(2). As explained below in more detail in the section of this request regarding a fee waiver, the Brennan Center and The Protect Democracy Project intend to disseminate the information obtained in response to this request to enable the public to effectively monitor, evaluate, participate in, and respond to the work of the Commission, which is scheduled to begin immediately.

The Brennan Center and The Protect Democracy Project are section 501(c)(3) non-profit organizations that are “primarily engaged in disseminating information” within the meaning of 5 U.S.C. § 552(a)(6)(E)(v)(II) and 41 C.F.R. § 105-60.402-2(c)(2). The United States District Court for the District of Columbia has found that a 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” is “primarily engaged in disseminating information” within the meaning of the statute and regulations. *Am. Civil Liberties Union v. Dep’t of Justice*, 321 F. Supp. 2d 24, 29 n.5 (D.D.C. 2004) (quoting *Elec. Privacy Info. Ctr. v. Dep’t of Def.*, 241 F. Supp. 2d 5, 11 (D.D.C. 2003)). The Brennan Center regularly writes and publishes reports and newspaper articles and makes appearances on various media outlets regarding the fight to preserve and expand the right to vote for every eligible citizen. Through practical policy proposals, litigation, advocacy, and communications, the Brennan Center works to ensure that voting is free, fair, and accessible for all Americans.²

The core mission of The Protect Democracy Project, a new organization awaiting 501(c)(3) status, is to inform public understanding on operations and activities of the government. This request is submitted in accordance with the organization’s mission to gather and disseminate information that is likely to contribute significantly to the public understanding of executive branch operations and activities. The Protect Democracy Project has no commercial interests.

Furthermore, the Brennan Center and The Protect Democracy Project urgently require the information sought by this request in order to inform the public of federal government activity. *See* 5 U.S.C. § 552(a)(6)(E)(v)(II); 41 C.F.R. § 105-60.402-2(c)(2). The information requested herein concerns federal government activity with regard to the conduct and integrity of federal elections, which is at the core of the missions for both the Department and the newly established Commission. This information is of vital interest to the general public. Both the Commission and the issue of voter fraud have generated

² A list of the Brennan Center’s recent publications is available at <http://www.brennancenter.org/content/resources/publications>.

extensive public interest and media coverage, reflecting the public's urgent concern about election integrity. The Brennan Center and The Protect Democracy Project intend to share any new information about the Commission and the integrity of federal elections obtained from this request with the public. The Commission's charge includes recommending changes to the nation's "laws, rules, policies, activities, strategies, and practices" regarding voting—all of which are of critical importance to the public and the integrity of American democracy, as well as to the missions of the Brennan Center for Justice and The Protect Democracy Project.

In order to adequately inform the public and to monitor the Commission, the Brennan Center and The Protect Democracy Project need this information expeditiously. According to news reports, the Commission will begin its work shortly,³ and according to the White House's official announcement, a final report will be submitted to the President next year.⁴ Before this summer, the Commission will likely name additional members (fewer than half of a possible total of fifteen are currently named), hire staff, and establish a meeting and hearing calendar, as provided for in the Executive Order. The information sought in this request is critical for the public's monitoring and evaluation of and response to those immediate activities. The information is also critical to public evaluation and monitoring of the Commission's work, to pursue its mission of determining which "laws, rules, policies, activities, strategies, and practices" enhance or undermine public confidence in elections and what vulnerabilities exist in America's voting systems—work which the Commission plans to begin expeditiously. Effective public monitoring and involvement is urgently needed given the importance of the topics the Commission is charged with addressing.

IV. Application for Waiver or Limitation of All Fees

The Brennan Center requests a waiver of all search, review, and duplication fees associated with this request. The Brennan Center is eligible for a waiver of search and review fees pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II) and 41 C.F.R. § 105-60.305-13, and for a waiver of all fees, including duplication fees, pursuant to 5 U.S.C. § 552(a)(4)(A)(iii) and 41 C.F.R. § 105-60.305-13.

³ See Ali Vitali, Peter Alexander, & Kelly O'Donnell, *Trump Establishes Voter Fraud Commission*, NBC NEWS, May 11, 2017, <http://www.nbcnews.com/politics/white-house/trump-establish-vote-fraud-commission-n757796>; Jenna Johnson & John Wagner, *White House launches a commission to study voter fraud and suppression*, WASH. POST, May 11, 2017, https://www.washingtonpost.com/news/post-politics/wp/2017/05/11/white-house-to-launch-a-commission-to-study-voter-fraud-and-suppression/?utm_term=.a495285c5a69; Pam Fessler, *Despite Little Evidence of Fraud, White House Launches Voting Commission*, NAT'L PUB. RADIO, May 11, 2017, <http://www.npr.org/2017/05/11/527924633/white-house-expected-to-announce-voting-fraud-commission>; DEBORAH BARRY & DAVID JACKSON, *Trump orders "voter fraud" commission as FBI firing fallout lingers*, USA Today, May 11, 2017, <https://www.usatoday.com/story/news/politics/2017/05/11/donald-trump-voter-fraud-mike-pence-kris-kobach/101544112/>.

⁴ The White House, Office of the Press Secretary, *President Announces Formation of Bipartisan Presidential Commission on Election Integrity*, May 11, 2017, <https://www.whitehouse.gov/the-press-office/2017/05/11/president-announces-formation-bipartisan-presidential-commission>.

First, the Brennan Center plans to analyze, publish, and publicly disseminate information obtained from this request. The requested records are not sought for commercial use and will be disclosed to the public at no cost.

Second, the Brennan Center qualifies as a “representative of the news media” for the same reasons that it is “primarily engaged in dissemination of information,” i.e., because the Brennan Center “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); *Nat’l Sec. Archive v. Dep’t of Def.*, 880 F.2d 1381, 1387 (D.C. Cir. 1989). The Brennan Center has released dozens of publications regarding voting issues in the form of reports and papers on various issues of public importance. *Cf. Elec. Privacy Info. Ctr.*, 241 F. Supp. 2d at 11-12 (finding that the Electronic Privacy Information Center was representative of the news media based on its publication of seven books about national and international policies relating to privacy and civil rights); *see also Nat’l Sec. Archive*, 880 F.2d at 1386 (deeming the National Security Archive a representative of the news media after it published one book and indicated its intention to publish a set of documents on national and international politics and nuclear policy). The Brennan Center is therefore entitled to a waiver of search and review fees pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II) and 28 C.F.R. § 16.10(k).

As a noncommercial requester, the Brennan Center also qualifies for waivers as an “educational institution” pursuant to 41 C.F.R. § 105-60.305-10 and 41 C.F.R. § 105-60.305-1. The Brennan Center qualifies as an educational institution because it is affiliated with the NYU School of Law, which is plainly an educational institution. *See also Nat’l Sec. Archive v. Dep’t of Def.*, 880 F.2d 1381 (D.C. Cir. 1989).

The Brennan Center is also entitled to a waiver of all fees, including duplication fees, pursuant to 5 U.S.C. § 552(a)(4)(A)(iii) and 41 C.F.R. § 105-60.305-13. First, the subject of the requested records clearly concerns “the operations or activities of the federal government.” This request seeks records and information concerning federal government activity because the materials requested concern allegations by the President of voter fraud in the conduct of federal elections and proposed changes to federal law. This connection to the federal government is “direct and clear, not remote or attenuated.” Disclosure of the requested records is therefore in the public interest because it is likely to contribute significantly to public understanding of how the government is regulating elections, which is plainly of interest to the public. Disclosure will significantly enhance the public’s understanding of this subject.

Moreover, disclosure is not primarily in the Brennan Center’s commercial interests. As stated above, the Brennan Center plans to make any information disclosed as a result of this request available to the public at no cost. A fee waiver would therefore fulfill Congress’s legislative intent that FOIA be “liberally construed in favor of waivers for noncommercial requesters.” *McClellan Ecological Situation v. Carlucci*, 835 F.2d 1282, 1284 (9th Cir. 1987) (quoting 132 CONG. REC. 27, 190 (1986) (Statement of Sen. Leahy)).

In the event you deny our waiver request, please contact us if you expect the costs to exceed the amount of \$500.00.

V. Response Requested in 5 Working Days

Your attention to this request is appreciated, and the Brennan Center and The Protect Democracy Project will anticipate your determination regarding our request for expedited processing within five (5) working days. *See* 5 U.S.C. § 552(a)(6)(E)(ii)(I); 41 C.F.R. § 105-60.402-2(d). 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).

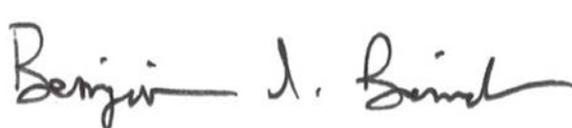
We also request that you provide us with an estimated completion date, as required by 5 U.S.C. § 552(a)(7)(B)(ii). If the request is denied in whole or in part, we ask that you justify all deletions by reference to specific exemptions to FOIA. We expect the release of all segregable portions of otherwise exempt material. We reserve the right to appeal a decision to withhold any information or to deny a waiver of fees.

Please furnish all applicable records to:

Wendy R. Weiser
Director, Democracy Program
Brennan Center for Justice at NYU School of Law
120 Broadway, Suite 1750
New York, NY 10271
(646) 292-8310
www.brennancenter.org

Should you have any questions regarding this request, please contact Ms. Weiser at the address above, by telephone at (646) 292-8310, or by e-mail at weiserw@brennan.law.nyu.edu; or Ben Berwick by email at ben.berwick@protectdemocracy.org.

Sincerely,



Ben Berwick, Counsel
The Protect Democracy Project

Wendy Weiser, Director
Adam Gitlin, Counsel
Tomas Lopez, Counsel

Democracy Program
Brennan Center for Justice at NYU School
of Law
120 Broadway, Suite 1750
New York, New York 10271

BRENNAN
CENTER
FOR JUSTICE
TWENTY
YEARS

The **Protect -**
Democracy
Project 

at New York University School of Law

Via Certified Mail and Electronic Submission

May 17, 2017

Dionne Hardy
FOIA Officer
Office of Management and Budget
1800 G Street, NW
Washington, DC 20503

Sarah Whittle Spooner
Public Liaison and Chief FOIA Officer
Office of Management and Budget
1800 G Street, NW
Washington, DC 20503

Re: Freedom of Information Act Request, Request for Expedited Processing and Fee Waiver

Dear Ms. Hardy and Ms. Spooner:

This is a request to the Office of Management and Budget (“OMB”) under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552. It is also a request for expedited processing under 5 U.S.C. § 552(a)(6)(E) and 5 C.F.R. § 1303.10(d), and for a fee waiver under 5 U.S.C. §§ 552(a)(4)(A)(ii) & (iii) and 5 C.F.R. § 1303.70.

I. Background

President Trump issued Executive Order 13799, creating a “Presidential Advisory Commission on Election Integrity” (the “Commission”), supposedly “to promote fair and honest Federal elections.” According to the Executive Order, the Commission shall “study the registration and voting processes used in Federal elections... and shall submit a report to the President that identifies... those laws, rules, policies, activities, strategies, and practices” that either “enhance” or “undermine the American people’s confidence in the integrity of the voting processes used in Federal elections;” and “those vulnerabilities in voting systems and practices used for Federal elections that could lead to improper

voter registrations and improper voting, including fraudulent voter registrations and fraudulent voting.”

The Commission is chaired by the Vice President of the United States and, per the Executive Order, “shall be informed by, and shall strive to avoid duplicating, the efforts of existing government entities.”

The Order also provides for “staff to provide support for [the Commission’s] functions.” Further, “subject to the availability of appropriations, the General Services Administration shall provide the Commission with such administrative services, funds, facilities, staff, equipment, and other support services as may be necessary to carry out its mission on a reimbursable basis.”

II. Formal Request

The Brennan Center for Justice at NYU School of Law and The Protect Democracy Project request, to the extent the following are in the possession, custody, or control of the Office of Management and Budget:

1. All communications, including but not limited to emails and memoranda, within the custody or control of OMB regarding the Presidential Advisory Commission on Election Integrity or any other effort since November 8, 2016 to establish a commission, task force, or committee to study voter fraud or any aspect of the voting system.
2. All communications, including but not limited to emails and memoranda, within the custody or control of OMB with any member of the Presidential Advisory Commission on Election Integrity, other than Vice President Michael Pence, since November 8, 2016.¹
3. All documents relating to the Presidential Advisory Commission on Election Integrity or any other effort since November 8, 2016 to establish a commission, task force, or committee to study voter fraud or any aspect of the voting system, including all documents discussing or making reference to the following subjects:
 - a) The Executive Order creating the Presidential Advisory Commission on Election Integrity;
 - b) The reasons for forming the Presidential Advisory Commission on Election Integrity;

¹ According to a public announcement from the White House, the following individuals are currently members of the Presidential Advisory Commission on Election Integrity: Vice President Michael Pence, Kansas Secretary of State Kris Kobach, Indiana Secretary of State Connie Lawson, New Hampshire Secretary of State William Gardner, Maine Secretary of State Matthew Dunlap, former Ohio Secretary of State J. Kenneth Blackwell, and EAC Commissioner Christy McCormick. The White House, Office of the Press Secretary, President Announces Formation of Bipartisan Presidential Commission on Election Integrity, May 11, 2017, <https://www.whitehouse.gov/the-press-office/2017/05/11/president-announces-formation-bipartisan-presidential-commission>.

- c) The goals and mission of the Presidential Advisory Commission on Election Integrity;
- d) The membership of the Presidential Advisory Commission on Election Integrity, including the criteria for selection of its members;
- e) The budget of the Presidential Advisory Commission on Election Integrity, including line items for salaries, research, travel, meetings, hearings, and public materials; and
- f) The staffing of the Presidential Advisory Commission on Election Integrity, including job descriptions, organization charts, and criteria for hiring.

Definitions

As used in this request—

“*Collaborative Work Environment*” means a platform used to create, edit, review, approve, store, organize, share, and access documents and information by and among authorized users, potentially in diverse locations and with different devices. Collaborative Work Environments include Google Docs sites, Microsoft SharePoint sites, eRooms, document management systems (e.g., iManage), intranets, web content management systems (CMS) (e.g., Drupal), wikis, and blogs.

“*Communications*” means disclosure, transfer, or exchange of information or opinion, however made, including any transmission of information by oral, graphic, written, pictorial, electronic, or other perceptible means.

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“*Including*” means including, but not limited to.

“*Presidential Advisory Commission on Election Integrity*” means the commission created pursuant to the Executive Order on “Establishment of Presidential Advisory Commission on Election Integrity,” signed by President Donald Trump on May 11, 2017, or any effort

to establish any task force, commission, or committee, whether through a government agency or not, to investigate voter fraud, vote suppression, or any other aspect of the voting system.

We request that responsive electronic records be provided electronically, in a text-searchable, static-image (PDF) format (in the best image quality available to the agency), pursuant to 5 U.S.C. § 552(a)(3)(A)(B) and (C).

III. Application for Expedited Processing

The Brennan Center and The Protect Democracy Project request expedited processing pursuant to 5 U.S.C. § 552(a)(6)(E) and 5 C.F.R. § 1303.10(d). This request meets the criteria for expedited processing because there is “[a]n urgency to inform the public about an actual or alleged Federal Government activity, if made by a person who is primarily engaged in disseminating information;” and this request concerns “[a] matter of widespread and exceptional media interest in which there exist possible questions about the government’s integrity that could affect public confidence.” 5 C.F.R. § 1303.10(d)(1)(ii) and (iv). As explained below in more detail in the section of this request regarding a fee waiver, the Brennan Center and The Protect Democracy Project intend to disseminate the information obtained in response to this request to enable the public to effectively monitor, evaluate, participate in, and respond to the work of the Commission, which is scheduled to begin immediately.

The Brennan Center and The Protect Democracy Project are section 501(c)(3) non-profit organizations that are “primarily engaged in disseminating information” within the meaning of 5 U.S.C. § 552(a)(6)(E)(v)(II) and 5 C.F.R. § 1303.10(d)(1)(ii). The United States District Court for the District of Columbia has found that a 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” is “primarily engaged in disseminating information” within the meaning of the statute and regulations. *Am. Civil Liberties Union v. Dep’t of Justice*, 321 F. Supp. 2d 24, 29 n.5 (D.D.C. 2004) (quoting *Elec. Privacy Info. Ctr. v. Dep’t of Def.*, 241 F. Supp. 2d 5, 11 (D.D.C. 2003)). The Brennan Center regularly writes and publishes reports and newspaper articles and makes appearances on various media outlets regarding the fight to preserve and expand the right to vote for every eligible citizen. Through practical policy proposals, litigation, advocacy, and communications, the Brennan Center works to ensure that voting is free, fair, and accessible for all Americans.²

The core mission of The Protect Democracy Project, a new organization awaiting 501(c)(3) status, is to inform public understanding on operations and activities of the government. This request is submitted in accordance with the organization’s mission to gather and disseminate information that is likely to contribute significantly to the public understanding of executive branch operations and activities. The Protect Democracy Project has no commercial interests.

² A list of the Brennan Center’s recent publications is available at <http://www.brennancenter.org/content/resources/publications>.

Furthermore, the Brennan Center and The Protect Democracy Project urgently require the information sought by this request in order to inform the public of federal government activity. *See* 5 U.S.C. § 552(a)(6)(E)(v)(II); 5 C.F.R. § 1303.10(d)(1)(ii). The information requested herein concerns federal government activity with regard to the conduct and integrity of federal elections, which is at the core of the missions for both the Department and the newly established Commission. This information is of vital interest to the general public. Both the Commission and the issue of voter fraud have generated extensive public interest and media coverage, reflecting the public's urgent concern about election integrity. The Brennan Center and The Protect Democracy Project intend to share any new information about the Commission and the integrity of federal elections obtained from this request with the public. The Commission's charge includes recommending changes to the nation's "laws, rules, policies, activities, strategies, and practices" regarding voting—all of which are of critical importance to the public and the integrity of American democracy, as well as to the missions of the Brennan Center for Justice and The Protect Democracy Project.

In order to adequately inform the public and to monitor the Commission, the Brennan Center and The Protect Democracy Project need this information expeditiously. According to news reports, the Commission will begin its work shortly,³ and according to the White House's official announcement, a final report will be submitted to the President next year.⁴ Before this summer, the Commission will likely name additional members (fewer than half of a possible total of fifteen are currently named), hire staff, and establish a meeting and hearing calendar, as provided for in the Executive Order. The information sought in this request is critical for the public's monitoring and evaluation of and response to those immediate activities. The information is also critical to public evaluation and monitoring of the Commission's work, to pursue its mission of determining which "laws, rules, policies, activities, strategies, and practices" enhance or undermine public confidence in elections and what vulnerabilities exist in America's voting systems—work which the Commission plans to begin expeditiously. Effective public monitoring and involvement is urgently needed given the importance of the topics the Commission is charged with addressing.

³ *See* Ali Vitali, Peter Alexander, & Kelly O'Donnell, *Trump Establishes Voter Fraud Commission*, NBC NEWS, May 11, 2017, <http://www.nbcnews.com/politics/white-house/trump-establish-vote-fraud-commission-n757796>; Jenna Johnson & John Wagner, *White House launches a commission to study voter fraud and suppression*, WASH. POST, May 11, 2017, https://www.washingtonpost.com/news/post-politics/wp/2017/05/11/white-house-to-launch-a-commission-to-study-voter-fraud-and-suppression/?utm_term=.a495285c5a69; Pam Fessler, *Despite Little Evidence of Fraud, White House Launches Voting Commission*, NAT'L PUB. RADIO, May 11, 2017, <http://www.npr.org/2017/05/11/527924633/white-house-expected-to-announce-voting-fraud-commission>; DEBORAH BARRY & DAVID JACKSON, *Trump orders "voter fraud" commission as FBI firing fallout lingers*, USA Today, May 11, 2017, <https://www.usatoday.com/story/news/politics/2017/05/11/donald-trump-voter-fraud-mike-pence-kris-kobach/101544112/>.

⁴ The White House, Office of the Press Secretary, *President Announces Formation of Bipartisan Presidential Commission on Election Integrity*, May 11, 2017, <https://www.whitehouse.gov/the-press-office/2017/05/11/president-announces-formation-bipartisan-presidential-commission>.

IV. Application for Waiver or Limitation of All Fees

The Brennan Center requests a waiver of all search, review, and duplication fees associated with this request. The Brennan Center is eligible for a waiver of search and review fees pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II) and 5 C.F.R. § 1303.70, and for a waiver of all fees, including duplication fees, pursuant to 5 U.S.C. § 552(a)(4)(A)(iii) and 5 C.F.R. § 1303.70.

First, the Brennan Center plans to analyze, publish, and publicly disseminate information obtained from this request. The requested records are not sought for commercial use and will be disclosed to the public at no cost.

Second, the Brennan Center qualifies as a “representative of the news media” for the same reasons that it is “primarily engaged in dissemination of information,” i.e., because the Brennan Center “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); *Nat’l Sec. Archive v. Dep’t of Def.*, 880 F.2d 1381, 1387 (D.C. Cir. 1989). The Brennan Center has released dozens of publications regarding voting issues in the form of reports and papers on various issues of public importance. *Cf. Elec. Privacy Info. Ctr.*, 241 F. Supp. 2d at 11-12 (finding that the Electronic Privacy Information Center was representative of the news media based on its publication of seven books about national and international policies relating to privacy and civil rights); *see also Nat’l Sec. Archive*, 880 F.2d at 1386 (deeming the National Security Archive a representative of the news media after it published one book and indicated its intention to publish a set of documents on national and international politics and nuclear policy). The Brennan Center is therefore entitled to a waiver of search and review fees pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II) and 28 C.F.R. § 16.10(k).

As a noncommercial requester, the Brennan Center also qualifies for waivers as an “educational institution” pursuant to 5 C.F.R. § 1303.50 and 5 C.F.R. § 1303.70. The Brennan Center qualifies as an educational institution because it is affiliated with the NYU School of Law, which is plainly an educational institution. *See also Nat’l Sec. Archive v. Dep’t of Def.*, 880 F.2d 1381 (D.C. Cir. 1989).

The Brennan Center is also entitled to a waiver of all fees, including duplication fees, pursuant to 5 U.S.C. § 552(a)(4)(A)(iii) and 5 C.F.R. § 1303.70. First, the subject of the requested records clearly concerns “the operations or activities of the federal government.” This request seeks records and information concerning federal government activity because the materials requested concern allegations by the President of voter fraud in the conduct of federal elections and proposed changes to federal law. This connection to the federal government is “direct and clear, not remote or attenuated.” Disclosure of the requested records is therefore in the public interest because it is likely to contribute significantly to public understanding of how the government is regulating elections, which is plainly of interest to the public. Disclosure will significantly enhance the public’s understanding of this subject.

Moreover, disclosure is not primarily in the Brennan Center's commercial interests. As stated above, the Brennan Center plans to make any information disclosed as a result of this request available to the public at no cost. A fee waiver would therefore fulfill Congress's legislative intent that FOIA be "liberally construed in favor of waivers for noncommercial requesters." *McClellan Ecological Situation v. Carlucci*, 835 F.2d 1282, 1284 (9th Cir. 1987) (quoting 132 CONG. REC. 27, 190 (1986) (Statement of Sen. Leahy)).

In the event you deny our waiver request, please contact us if you expect the costs to exceed the amount of \$500.00.

V. Response Requested in 10 Days

Your attention to this request is appreciated, and the Brennan Center and The Protect Democracy Project will anticipate your determination regarding our request for expedited processing within ten (10) calendar days. *See* 5 U.S.C. § 552(a)(6)(E)(ii)(I); 5 C.F.R. § 1303.10(d)(4). 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).

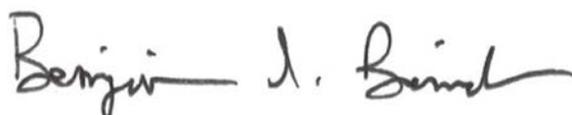
We also request that you provide us with an estimated completion date, as required by 5 U.S.C. § 552(a)(7)(B)(ii). If the request is denied in whole or in part, we ask that you justify all deletions by reference to specific exemptions to FOIA. We expect the release of all segregable portions of otherwise exempt material. We reserve the right to appeal a decision to withhold any information or to deny a waiver of fees.

Please furnish all applicable records to:

Wendy R. Weiser
Director, Democracy Program
Brennan Center for Justice at NYU School of Law
120 Broadway, Suite 1750
New York, NY 10271
(646) 292-8310
www.brennancenter.org

Should you have any questions regarding this request, please contact Ms. Weiser at the address above, by telephone at (646) 292-8310, or by e-mail at weiserw@brennan.law.nyu.edu; or Ben Berwick by email at ben.berwick@protectdemocracy.org.

Sincerely,



Ben Berwick, Counsel
The Protect Democracy Project



Wendy Weiser, Director
Adam Gitlin, Counsel
Tomas Lopez, Counsel
Democracy Program
Brennan Center for Justice at NYU School
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120 Broadway, Suite 1750
New York, New York 10271

BRENNAN
CENTER
FOR JUSTICE
TWENTY
YEARS

The **Protect -**
Democracy
Project 

at New York University School of Law

Via Certified Mail and Electronic Submission

July 25, 2017

Laurie Day
Chief, Initial Request Staff
Office of Information Policy
Department of Justice
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Room 5511, 950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001

Re: Freedom of Information Act Request, Request for Expedited Processing and Fee Waiver

Ms. Day, Mr. Hermilla, and Ms. Golden:

This is a request on behalf of the Brennan Center for Justice at NYU School of Law and the Protect Democracy Project under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, to the Department of Justice (“DOJ”) and its offices, divisions, and components, including but not limited to the Office of Information Policy (“OIP”), Civil Rights Division (“CRD”), Office of Legal Counsel (“OLC”), Office of the Deputy Attorney General, Office of the Associate

Attorney General, and Office of the Attorney General. It is also a request for expedited processing under 5 U.S.C. § 552(a)(6)(E) and 28 C.F.R. § 16.5(e)(1), and for a fee waiver under 5 U.S.C. §§ 552(a)(4)(A)(ii) & (iii) and 28 C.F.R. § 16.5(k).

I. Background

President Trump issued Executive Order 13799, creating a “Presidential Advisory Commission on Election Integrity” (the “Commission”), purportedly “to promote fair and honest Federal elections.” According to the Executive Order, the Commission shall “study the registration and voting processes used in Federal elections... and shall submit a report to the President that identifies... those laws, rules, policies, activities, strategies, and practices” that either “enhance” or “undermine ... the American people’s confidence in the integrity of the voting processes used in Federal elections;” and “those vulnerabilities in voting systems and practices used for Federal elections that could lead to improper voter registrations and improper voting, including fraudulent voter registrations and fraudulent voting.” The Executive Order excludes examination of pressing vulnerabilities in elections systems, like the nation’s aging voting equipment, and fails to reference any investigation into voter suppression efforts or voter turnout issues.

The Commission is chaired by the Vice President of the United States and, per the Executive Order, “shall be informed by, and shall strive to avoid duplicating, the efforts of existing government entities.”

The Order also provides for “staff to provide support for [the Commission’s] functions.” Further, “subject to the availability of appropriations, the General Services Administration shall provide the Commission with such administrative services, funds, facilities, staff, equipment, and other support services as may be necessary to carry out its mission on a reimbursable basis.”

On May 15, 2017, the Brennan Center for Justice at NYU School of Law and The Protect Democracy Project submitted a FOIA request (“Initial FOIA Request”) to DOJ addressed to OIP, CRD, and OLC, a copy of which is attached hereto as Exhibit A.

CRD confirmed its receipt of the Initial FOIA Request as of May 16, 2017 and assigned it tracking number FOI/PA No. 17-00286-F.

OIP confirmed its receipt of the Initial FOIA Request as of May 24, 2017 and assigned it tracking numbers DOJ-2017-004291, DOJ-2017-004292, and DOJ-2017-004293.

OLC confirmed receipt of the Initial FOIA Request as of June 8, 2017 and assigned it tracking number FY17-218.

On June 28, 2017, the Commission’s vice chair, Kansas Secretary of State Kris Kobach, sent letters to chief state election officials requesting they submit “publicly-available data from state voter rolls and feedback on how to improve election integrity” by July 14. The Commission explained that “any documents that are submitted to the full Commission will also be made available to the public.” Civic groups, including the Brennan Center, challenged the

Commission's requests in court,¹ and the Commission subsequently asked states to hold off submitting data pending a court ruling.²

President Trump attended and spoke at the Commission's first meeting, which took place on July 19, 2017. The Commission has scheduled its next meeting for September 2017.

II. Formal Request

The Brennan Center for Justice at NYU School of Law and The Protect Democracy Project request, to the extent the following are in the possession, custody, or control of DOJ, CRD, OLC, or OIP:

1. All communications and documents subject to the Initial FOIA Request created, dated, identified, or modified subsequent to any search previously undertaken by DOJ, CRD, OLC, or OIP in response to the Initial Request.
2. All communications and documents regarding use of the following databases for any purpose related to the Presidential Advisory Commission on Election Integrity, whether by any employee of DHS or by any commissioner, officer, agent, employee, or assignee of the Presidential Advisory Commission on Election Integrity:
 - a. The Systematic Alien Verification for Entitlements ("SAVE") program;
 - b. The National Security Entry-Exit Registration Systems ("NSEERS") program;
 - c. Any cross-state voter database programs, including but not limited to the Electronic Registration Information Center ("ERIC") and Interstate Voter Registration Crosscheck ("IVRC") program;
 - d. Any list, program, or other resource that contains or can be used to determine the citizenship status of any individual, including but not limited to resources at the disposal of the Executive Office for Immigration Review ("EOIR");
 - e. Any other federal database for the purpose of matching, verifying, or investigating information on voter registration lists, including all lists to which the Commission was granted access.
3. All communications and documents concerning the Presidential Advisory Commission on Election Integrity, including but not limited to emails, memoranda, and letters to state election officials regarding the requests for narrative responses and voter file data sent by the Commission on or around June 28, 2017.

¹ *Legal Actions Taken Against Trump's "Voter Fraud" Commission*, Brennan Center for Justice (updated July 21, 2017), <https://www.brennancenter.org/legal-actions-taken-against-trump%E2%80%99s-%E2%80%9Cfraud%E2%80%9D-commission>.

² Spencer S. Hsu, *Trump voting panel tells states to hold off sending data while court weighs privacy impact*, Wash. Post (July 10, 2017), http://wapo.st/2tBvySS?tid=ss_mail&utm_term=.f7ce56635876.

4. All communications and documents identifying the names and titles of DOJ officers, agents, employees, or assignees on detail or assignment to the Commission, the Executive Office of the President (“EOP”), or other agency or government entity to work with or on behalf of the Commission, including but not limited to memoranda of understanding with the Commission, EOP, or other agency or government entity outlining such individuals’ responsibilities while on detail or assignment.
5. All communications and documents regarding the selection of members of the Commission, including but not limited to selection criteria.
6. All communications and documents regarding the staffing of the Commission, including but not limited to job descriptions, organization charts, and criteria for hiring.
7. All communications and documents regarding DOJ expenditures directly or indirectly related to the Commission and Commission activities.
8. All communications and documents regarding the Commission’s July 19, 2017 meeting, including but not limited to communications and documents concerning the meeting agenda, staffing, location, and budget and any notes or transcripts of the meeting proceedings.
9. All communications and documents concerning the Commission’s research or investigatory activities, including but not limited to communications and documents concerning the Commission’s research methodologies, identification of experts, consultation with experts, and materials reviewed in connection with the Commission’s research and investigatory activities.
10. All communications and documents describing the processing of this request, including records sufficient to identify search terms used and locations and custodians searched, and any tracking sheets used to track the processing of this request. If DOJ uses FOIA questionnaires or certifications completed by individual custodians or components to determine whether they possess responsive materials or to describe how they conducted searches, we also request any such records prepared in connection with the processing of this request.

Definitions

As used in this request—

“*Collaborative Work Environment*” means a platform used to create, edit, review, approve, store, organize, share, and access documents and information by and among authorized users, potentially in diverse locations and with different devices. Collaborative Work Environments include Google Docs sites, Microsoft SharePoint sites, eRooms, document management systems (e.g., iManage), intranets, web content management systems (CMS) (e.g., Drupal), wikis, and blogs.

“*Communications*” means disclosure, transfer, or exchange of information or opinion, however made, including any transmission of information by oral, graphic, written, pictorial, electronic, or other perceptible means.

“*Documents*” means all written, printed, or electronically stored information of any kind in the possession, custody, or control of DOJ, including information stored on social media accounts like Twitter or Facebook, chats, instant messages, and documents contained in Collaborative Work Environments and other document databases. The term includes agreements; letters; calendar appointments; telegrams; inter-office communications; memoranda; reports; records; instructions; notes; notebooks; diaries; plans; diagrams; photographs; photocopies; charts; descriptions; drafts, whether or not they resulted in a final document; agendas and minutes of meetings, conferences, and telephone or other conversations or communications; recordings; published or unpublished speeches or articles; publications; transcripts of telephone conversations; phone mail; electronic-mail; and computer print-outs.

“*Including*” means including, but not limited to.

“*Presidential Advisory Commission on Election Integrity*” means the commission created pursuant to the Executive Order on “Establishment of Presidential Advisory Commission on Election Integrity,” signed by President Donald Trump on May 11, 2017, or any effort to establish any task force, commission, or committee, whether through a government agency or not, to investigate voter fraud, vote suppression, or any other aspect of the voting system.

Unless otherwise noted, the request includes documents and communications dated, created, identified, or modified between November 8, 2016 and the date of DOJ’s search.

We request that responsive electronic records be provided electronically, in a text-searchable, static-image (PDF) format (in the best image quality available to the agency), pursuant to 5 U.S.C. § 552(a)(3)(A)(B) and (C).

III. Request for Expedited Processing

The Brennan Center and The Protect Democracy Project request expedited processing pursuant to 5 U.S.C. § 552(a)(6)(E) and 28 C.F.R. § 16.5(e)(1)(ii), (iv). The Brennan Center and The Protect Democracy Project intend to disseminate the information obtained in response to this request to enable the public to effectively monitor, evaluate, participate in, and respond to the work of the Commission, which has begun in earnest. The Commission has attempted to collect and make public voter information from all 50 states, held an introductory meeting led by the Vice President and featuring remarks by the President, and plans to meet again this September. Both the Commission and the issue of voter fraud have generated extensive public interest and media coverage, reflecting the public’s urgent concern about election integrity.³ Accordingly,

³ See, e.g., Ed. Board, *The Bogus Voter-Fraud Commission*, N.Y. Times, Jul. 22, 2017, <https://www.nytimes.com/2017/07/22/opinion/sunday/the-bogus-voter-fraud-commission.html>; Vann R. Newkirk II, *Trump’s Voter-Fraud Commission Has Its First Meeting*, Atlantic, Jul. 19, 2017, <https://www.theatlantic.com/politics/archive/2017/07/trumps-voter-fraud-commission-runs-into-a-roadblock/534084/>; Liz Stark & Grace Hauck, *Forty-four states and DC have refused to give certain voter information to Trump commission*, CNN, Jul. 5, 2017, <http://www.cnn.com/2017/07/03/politics/kris-kobach-letter-voter-fraud-commission-information/index.html>; CBS News, *Trump “voter fraud” commission seeking data from*

this request meets the criteria for expedited processing because there is “[a]n urgency to inform the public about an actual or alleged Federal Government activity” and this request concerns “[a] matter of widespread and exceptional media interest in which there exist possible questions about the government’s integrity which affect public confidence.” 28 C.F.R. § 16.5(e)(1)(ii), (iv).

The Brennan Center and The Protect Democracy Project are section 501(c)(3) non-profit organizations that are “primarily engaged in disseminating information” within the meaning of 5 U.S.C. § 552(a)(6)(E)(v)(II) and 28 C.F.R. § 16.5(e)(1)(ii). The Brennan Center regularly writes and publishes reports and newspaper articles and makes appearances on various media outlets regarding the fight to preserve and expand the right to vote for every eligible citizen. Through practical policy proposals, litigation, advocacy, and communications, the Brennan Center works to ensure that voting is free, fair, and accessible for all Americans.⁴

The core mission of The Protect Democracy Project, a new organization awaiting 501(c)(3) status, is to inform public understanding on operations and activities of the government. This request is submitted in accordance with the organization’s mission to gather and disseminate information that is likely to contribute significantly to the public understanding of executive branch operations and activities. The Protect Democracy Project has routinely demonstrated the ability to disseminate information about its FOIA requests to a wide audience.⁵ The Protect Democracy Project has been recognized as an organization that meets this standard. *Protect Democracy Project, Inc. v. U.S. Dep’t of Def.*, No. 17-CV-00842 (CRC), 2017 WL 2992076 (D.D.C. July 13, 2017). The Protect Democracy Project has no commercial interests.

Furthermore, the Brennan Center and The Protect Democracy Project urgently require the information sought by this request in order to inform the public of federal government activity. See 5 U.S.C. § 552(a)(6)(E)(v)(II); 28 C.F.R. § 16.5(e)(1)(ii). The information requested herein concerns federal government activity that is of vital interest to the general public. The Brennan Center and The Protect Democracy Project intend to share any new information about the Commission and the integrity of federal elections obtained from this request with the public.

In order to adequately inform the public and to monitor the Commission, the Brennan Center and The Protect Democracy Project need this information expeditiously. The information

all states, June 30, 2017, <http://www.cbsnews.com/news/trump-voter-fraud-commission-seeking-voter-data-from-all-states/>; Ali Vitali, Peter Alexander & Kelly O’Donnell, *Trump Establishes Voter Fraud Commission*, NBC News, May 11, 2017, <http://www.nbcnews.com/politics/white-house/trump-establish-vote-fraud-commission-n757796>.

⁴ A list of the Brennan Center’s recent publications is available at <http://www.brennancenter.org/content/resources/publications>.

⁵ See, e.g., Lisa Rein, *Watchdog group, citing “integrity of civil service,” sues Trump to find out if feds are being bullied*, Wash. Post, Apr. 27, 2017, https://www.washingtonpost.com/news/powerpost/wp/2017/04/27/watchdog-group-citing-integrity-of-civil-service-sues-trump-to-find-out-if-feds-are-being-bullied/?utm_term=.8647ab128f3e; Ben Berwick, *Going to Court for Civil Servants*, Take Care, April 28, 2017, <https://takecareblog.com/blog/going-to-court-for-civil-servants>; Charlie Savage, *Watchdog Group Sues Trump Administration, Seeking Legal Rationale Behind Syria Strike*, N.Y. Times, May 8, 2017, <https://nyti.ms/2pX82OV>; Justin Florence, *What’s the Legal Basis for the Syria Strikes? The Administration Must Acknowledge Limits on its Power to Start a War*, Lawfare, May 8, 2017, <https://www.lawfareblog.com/whats-legal-basis-syria-strikes-administration-must-acknowledge-limits-its-power-start-war>.

sought in this request is critical for the public’s monitoring and evaluation of and response to those immediate activities. The information is also critical to public evaluation and monitoring of the Commission’s work, to pursue its mission of determining which “laws, rules, policies, activities, strategies, and practices” enhance or undermine public confidence in elections and what vulnerabilities exist in America’s voting systems—work which the Commission has already started. Effective public monitoring and involvement is urgently needed given the importance of the topics the Commission is charged with addressing.

IV. Application for Waiver or Limitation of All Fees

The Brennan Center and The Protect Democracy Project request a waiver of all search, review, and duplication fees associated with this request. The Brennan Center and the Protect Democracy Project are eligible for a waiver of search and review fees pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II) and 28 C.F.R. § 16.5(k), and for a waiver of all fees, including duplication fees, pursuant to 5 U.S.C. § 552(a)(4)(A)(iii) and 28 C.F.R. § 16.10(k).

First, the Brennan Center and The Protect Democracy Project plan to analyze, publish, and publicly disseminate information obtained from this request. The requested records are not sought for commercial use and will be disclosed to the public at no cost.

Second, the Brennan Center and The Protect Democracy Project qualify as “representative[s] of the news media” for the same reasons that they are “primarily engaged in dissemination of information,” i.e., because the Brennan Center and The Protect Democracy Project “gather[] 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); *Nat’l Sec. Archive v. Dep’t of Def.*, 880 F.2d 1381, 1387 (D.C. Cir. 1989). The Brennan Center and The Protect Democracy Project are therefore entitled to a waiver of search and review fees pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II) and 28 C.F.R. § 16.10(k).

As a noncommercial requester, the Brennan Center also qualifies for waivers as an “educational institution” pursuant to 28 C.F.R. § 16.10(d)(1) because it is affiliated with the NYU School of Law, which is plainly an educational institution.

The Brennan Center and The Protect Democracy Project are also entitled to a waiver of all fees, including duplication fees, pursuant to 5 U.S.C. § 552(a)(4)(A)(iii) and 28 C.F.R. § 16.5(e)(1)(ii). First, the subject of the requested records clearly concerns “the operations or activities of the federal government.” Disclosure of the requested records is therefore in the public interest because it is likely to contribute significantly to public understanding of how the government is regulating elections, which is plainly of interest to the public.

Moreover, disclosure is not primarily in the Brennan Center’s or The Protect Democracy Project’s commercial interests. As stated above, the Brennan Center and The Protect Democracy Project plan to make any information disclosed as a result of this request available to the public at no cost. A fee waiver would therefore fulfill Congress’s legislative intent that FOIA be “liberally construed in favor of waivers for noncommercial requesters.” *McClellan Ecological*

Situation v. Carlucci, 835 F.2d 1282, 1284 (9th Cir. 1987) (quoting 132 CONG. REC. 27, 190 (1986) (Statement of Sen. Leahy)).

In the event you deny our waiver request, please contact us if you expect the costs to exceed the amount of \$500.00.

V. Response Requested in 10 Days

Your attention to this request is appreciated, and the Brennan Center and The Protect Democracy Project will anticipate your determination regarding our request for expedited processing within ten (10) calendar days. *See* 5 U.S.C. § 552(a)(6)(E)(ii)(I); 28 C.F.R. § 16.5(e)(4). 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).

We also request that you provide us with an estimated completion date, as required by 5 U.S.C. § 552(a)(7)(B)(ii). If the request is denied in whole or in part, we ask that you justify all deletions by reference to specific exemptions to FOIA. We expect the release of all segregable portions of otherwise exempt material. We reserve the right to appeal a decision to withhold any information or to deny a waiver of fees.

Please furnish all applicable records to:

Wendy R. Weiser
Director, Democracy Program
Brennan Center for Justice at NYU School of Law
120 Broadway, Suite 1750
New York, NY 10271
(646) 292-8310
www.brennancenter.org

Should you have any questions regarding this request, please contact Ms. Weiser at the address above, by telephone at (646) 292-8310, or by e-mail at weiserw@brennan.law.nyu.edu; or Larry Schwartztol by telephone at (202) 599-0466 email or by email at larry.schwartztol@protectdemocracy.org.

Sincerely,



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BRENNAN
CENTER
FOR JUSTICE
TWENTY
YEARS

The **Protect -**
Democracy
Project 

at New York University School of Law

Via Certified Mail and Electronic Submission

July 25, 2017

U.S. General Services Administration
FOIA Requester Service Center (H1F)
1800 F Street, NW, Room 7308
Washington, DC 20405-0001

Re: Freedom of Information Act Request, Request for Expedited Processing and Fee Waiver

Dear Sir or Madam:

This is a request on behalf of the Brennan Center for Justice at NYU School of Law and the Protect Democracy Project to the General Services Administration (“GSA”) under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552. It is also a request for expedited processing under 5 U.S.C. § 552(a)(6)(E) and 41 C.F.R. § 105-60.402-2(c), and for a fee waiver under 5 U.S.C. §§ 552(a)(4)(A)(ii) & (iii) and 41 C.F.R. § 105-60.305-13.

I. Background

President Trump issued Executive Order 13799, creating a “Presidential Advisory Commission on Election Integrity” (the “Commission”), purportedly “to promote fair and honest Federal elections.” According to the Executive Order, the Commission shall “study the registration and voting processes used in Federal elections... and shall submit a report to the President that identifies... those laws, rules, policies, activities, strategies, and practices” that either “enhance” or “undermine ... the American people’s confidence in the integrity of the voting processes used in Federal elections;” and “those vulnerabilities in voting systems and practices used for Federal elections that could lead to improper voter registrations and improper voting, including fraudulent voter registrations and fraudulent voting.” The Executive Order excludes examination of pressing vulnerabilities in elections systems, like the nation’s aging voting equipment, and fails to reference any investigation into voter suppression efforts or voter turnout issues.

The Commission is chaired by the Vice President of the United States and, per the Executive Order, “shall be informed by, and shall strive to avoid duplicating, the efforts of existing government entities.”

The Order also provides for “staff to provide support for [the Commission’s] functions.” Further, “subject to the availability of appropriations, the General Services Administration shall provide the Commission with such administrative services, funds, facilities, staff, equipment, and other support services as may be necessary to carry out its mission on a reimbursable basis.”

On May 17, 2017, the Brennan Center for Justice at NYU School of Law and The Protect Democracy Project submitted a FOIA request (“Initial FOIA Request”) to GSA, a copy of which is attached hereto as Exhibit A. The same day, GSA acknowledged receipt of the Initial FOIA Request and assigned it reference number GSA-2017-001031. By letter dated June 21, 2017, GSA again acknowledged receipt of the Initial FOIA Request and assigned it reference number GSA-2017-001088. GSA asserted it had 20 working days from the date of the June 21 letter to respond to the Initial FOIA Request.

On June 28, 2017, the Commission’s vice chair, Kansas Secretary of State Kris Kobach, sent letters to chief state election officials requesting they submit “publicly-available data from state voter rolls and feedback on how to improve election integrity” by July 14. The Commission explained that “any documents that are submitted to the full Commission will also be made available to the public.” Civic groups, including the Brennan Center, challenged the Commission’s requests in court,¹ and the Commission subsequently asked states to hold off submitting data pending a court ruling.²

President Trump attended and spoke at the Commission’s first meeting, which took place on July 19, 2017. The Commission has scheduled its next meeting for September 2017.

II. Formal Request

The Brennan Center for Justice at NYU School of Law and The Protect Democracy Project request, to the extent the following are in the possession, custody, or control of GSA:

1. All communications and documents subject to the Initial FOIA Request created, dated, identified, or modified subsequent to any search previously undertaken by GSA in response to the Initial Request.
2. All communications and documents regarding use of the following databases for any purpose related to the Presidential Advisory Commission on Election Integrity, whether by any employee of DHS or by any commissioner, officer, agent, employee, or assignee of the Presidential Advisory Commission on Election Integrity:

¹ *Legal Actions Taken Against Trump’s “Voter Fraud” Commission*, Brennan Center for Justice (updated July 21, 2017), <https://www.brennancenter.org/legal-actions-taken-against-trump%E2%80%99s-%E2%80%9Cfraud%E2%80%9D-commission>.

² Spencer S. Hsu, *Trump voting panel tells states to hold off sending data while court weighs privacy impact*, Wash. Post (July 10, 2017), http://wapo.st/2tBvySS?tid=ss_mail&utm_term=.f7ce56635876.

- a. The Systematic Alien Verification for Entitlements (“SAVE”) program;
 - b. The National Security Entry-Exit Registration Systems (“NSEERS”) program;
 - c. Any cross-state voter database programs, including but not limited to the Electronic Registration Information Center (“ERIC”) and Interstate Voter Registration Crosscheck (“IVRC”) program;
 - d. Any list, program, or other resource that contains or can be used to determine the citizenship status of any individual;
 - e. Any other federal database for the purpose of matching, verifying, or investigating information on voter registration lists, including all lists to which the Commission was granted access.
3. All communications and documents concerning the Presidential Advisory Commission on Election Integrity, including but not limited to emails, memoranda, and letters to state election officials regarding the requests for narrative responses and voter file data sent by the Commission on or around June 28, 2017.
 4. All communications and documents identifying the names and titles of GSA officers, agents, employees, or assignees on detail or assignment to the Commission, the Executive Office of the President (“EOP”), or other agency or government entity to work with or on behalf of the Commission, including but not limited to memoranda of understanding with the Commission, EOP, or other agency or government entity outlining such individuals’ responsibilities while on detail or assignment.
 5. All communications and documents regarding the selection of members of the Commission, including but not limited to selection criteria.
 6. All communications and documents regarding the staffing of the Commission, including but not limited to job descriptions, organization charts, and criteria for hiring.
 7. All communications and documents regarding GSA expenditures directly or indirectly related to the Commission and Commission activities.
 8. All communications and documents regarding expenditures by any other federal agency directly or indirectly related to the Commission and Commission activities.
 9. All communications and documents regarding the Commission’s July 19, 2017 meeting, including but not limited to communications and documents concerning the meeting agenda, staffing, location, and budget and any notes or transcripts of the meeting proceedings.
 10. All communications and documents concerning the Commission’s research or investigatory activities, including but not limited to communications and documents concerning the Commission’s research methodologies, identification of experts,

consultation with experts, and materials reviewed in connection with the Commission's research and investigatory activities.

11. All communications and documents describing the processing of this request, including records sufficient to identify search terms used and locations and custodians searched, and any tracking sheets used to track the processing of this request. If GSA uses FOIA questionnaires or certifications completed by individual custodians or components to determine whether they possess responsive materials or to describe how they conducted searches, we also request any such records prepared in connection with the processing of this request.

Definitions

As used in this request—

“*Collaborative Work Environment*” means a platform used to create, edit, review, approve, store, organize, share, and access documents and information by and among authorized users, potentially in diverse locations and with different devices. Collaborative Work Environments include Google Docs sites, Microsoft SharePoint sites, eRooms, document management systems (e.g., iManage), intranets, web content management systems (CMS) (e.g., Drupal), wikis, and blogs.

“*Communications*” means disclosure, transfer, or exchange of information or opinion, however made, including any transmission of information by oral, graphic, written, pictorial, electronic, or other perceptible means.

“*Documents*” means all written, printed, or electronically stored information of any kind in the possession, custody, or control of GSA, including information stored on social media accounts like Twitter or Facebook, chats, instant messages, and documents contained in Collaborative Work Environments and other document databases. The term includes agreements; letters; calendar appointments; telegrams; inter-office communications; memoranda; reports; records; instructions; notes; notebooks; diaries; plans; diagrams; photographs; photocopies; charts; descriptions; drafts, whether or not they resulted in a final document; agendas and minutes of meetings, conferences, and telephone or other conversations or communications; recordings; published or unpublished speeches or articles; publications; transcripts of telephone conversations; phone mail; electronic-mail; and computer print-outs.

“*Including*” means including, but not limited to.

“*Presidential Advisory Commission on Election Integrity*” means the commission created pursuant to the Executive Order on “Establishment of Presidential Advisory Commission on Election Integrity,” signed by President Donald Trump on May 11, 2017, or any effort to establish any task force, commission, or committee, whether through a government agency or not, to investigate voter fraud, vote suppression, or any other aspect of the voting system.

Unless otherwise noted, the request includes documents and communications dated, created, identified, or modified between November 8, 2016 and the date of GSA's search.

We request that responsive electronic records be provided electronically, in a text-searchable, static-image (PDF) format (in the best image quality available to the agency), pursuant to 5 U.S.C. § 552(a)(3)(A)(B) and (C).

III. Request for Expedited Processing

The Brennan Center and The Protect Democracy Project request expedited processing pursuant to 5 U.S.C. § 552(a)(6)(E) and 41 C.F.R. § 105-60.402-2(c). The Brennan Center and The Protect Democracy Project intend to disseminate the information obtained in response to this request to enable the public to effectively monitor, evaluate, participate in, and respond to the work of the Commission, which has begun in earnest. The Commission has attempted to collect and make public voter information from all 50 states, held an introductory meeting led by the Vice President and featuring remarks by the President, and plans to meet again this September. Both the Commission and the issue of voter fraud have generated extensive public interest and media coverage, reflecting the public's urgent concern about election integrity.³ Accordingly, this request meets the criteria for expedited processing because "the information is urgently needed by an individual primarily engaged in disseminating information in order to inform the public concerning actual or alleged Federal Government activity." 41 C.F.R. § 105-60.402-2(c)(2).

The Brennan Center and The Protect Democracy Project are section 501(c)(3) non-profit organizations that are "primarily engaged in disseminating information" within the meaning of 5 U.S.C. § 552(a)(6)(E)(v)(II) and 41 C.F.R. § 105-60.402-2(c)(2). The Brennan Center regularly writes and publishes reports and newspaper articles and makes appearances on various media outlets regarding the fight to preserve and expand the right to vote for every eligible citizen. Through practical policy proposals, litigation, advocacy, and communications, the Brennan Center works to ensure that voting is free, fair, and accessible for all Americans.⁴

The core mission of The Protect Democracy Project, a new organization awaiting 501(c)(3) status, is to inform public understanding on operations and activities of the government. This request is submitted in accordance with the organization's mission to gather and disseminate information that is likely to contribute significantly to the public understanding of executive branch operations and activities. The Protect Democracy Project has routinely

³ See, e.g., Ed. Board, *The Bogus Voter-Fraud Commission*, N.Y. Times, Jul. 22, 2017, <https://www.nytimes.com/2017/07/22/opinion/sunday/the-bogus-voter-fraud-commission.html>; Vann R. Newkirk II, *Trump's Voter-Fraud Commission Has Its First Meeting*, Atlantic, Jul. 19, 2017, <https://www.theatlantic.com/politics/archive/2017/07/trumps-voter-fraud-commission-runs-into-a-roadblock/534084/>; Liz Stark & Grace Hauck, *Forty-four states and DC have refused to give certain voter information to Trump commission*, CNN, Jul. 5, 2017, <http://www.cnn.com/2017/07/03/politics/kris-kobach-letter-voter-fraud-commission-information/index.html>; CBS News, *Trump "voter fraud" commission seeking data from all states*, June 30, 2017, <http://www.cbsnews.com/news/trump-voter-fraud-commission-seeking-voter-data-from-all-states/>; Ali Vitali, Peter Alexander & Kelly O'Donnell, *Trump Establishes Voter Fraud Commission*, NBC News, May 11, 2017, <http://www.nbcnews.com/politics/white-house/trump-establish-vote-fraud-commission-n757796>.

⁴ A list of the Brennan Center's recent publications is available at <http://www.brennancenter.org/content/resources/publications>.

demonstrated the ability to disseminate information about its FOIA requests to a wide audience.⁵ The Protect Democracy Project has been recognized as an organization that meets this standard. *Protect Democracy Project, Inc. v. U.S. Dep't of Def.*, No. 17-CV-00842 (CRC), 2017 WL 2992076 (D.D.C. July 13, 2017). The Protect Democracy Project has no commercial interests.

Furthermore, the Brennan Center and The Protect Democracy Project urgently require the information sought by this request in order to inform the public of federal government activity. *See* 5 U.S.C. § 552(a)(6)(E)(v)(II); 41 C.F.R. § 105-60.402-2(c). The information requested herein concerns federal government activity that is of vital interest to the general public. The Brennan Center and The Protect Democracy Project intend to share any new information about the Commission and the integrity of federal elections obtained from this request with the public.

In order to adequately inform the public and to monitor the Commission, the Brennan Center and The Protect Democracy Project need this information expeditiously. The information sought in this request is critical for the public's monitoring and evaluation of and response to those immediate activities. The information is also critical to public evaluation and monitoring of the Commission's work, to pursue its mission of determining which "laws, rules, policies, activities, strategies, and practices" enhance or undermine public confidence in elections and what vulnerabilities exist in America's voting systems—work which the Commission has already started. Effective public monitoring and involvement is urgently needed given the importance of the topics the Commission is charged with addressing.

IV. Application for Waiver or Limitation of All Fees

The Brennan Center and The Protect Democracy Project request a waiver of all search, review, and duplication fees associated with this request. The Brennan Center and the Protect Democracy Project are eligible for a waiver of search and review fees pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II) and 41 C.F.R. § 105-60.305-13, and for a waiver of all fees, including duplication fees, pursuant to 5 U.S.C. § 552(a)(4)(A)(iii) and 41 C.F.R. § 105-60.305-13.

First, the Brennan Center and The Protect Democracy Project plan to analyze, publish, and publicly disseminate information obtained from this request. The requested records are not sought for commercial use and will be disclosed to the public at no cost.

Second, the Brennan Center and The Protect Democracy Project qualify as "representative[s] of the news media" for the same reasons that they are "primarily engaged in dissemination of information," i.e., because the Brennan Center and The Protect Democracy Project "gather[] information of potential interest to a segment of the public, uses its editorial

⁵ *See, e.g.*, Lisa Rein, *Watchdog group, citing "integrity of civil service," sues Trump to find out if feds are being bullied*, Wash. Post, Apr. 27, 2017, https://www.washingtonpost.com/news/powerpost/wp/2017/04/27/watchdog-group-citing-integrity-of-civil-service-sues-trump-to-find-out-if-feds-are-being-bullied/?utm_term=.8647ab128f3e; Ben Berwick, *Going to Court for Civil Servants, Take Care*, April 28, 2017, <https://takecareblog.com/blog/going-to-court-for-civil-servants>; Charlie Savage, *Watchdog Group Sues Trump Administration, Seeking Legal Rationale Behind Syria Strike*, N.Y. Times, May 8, 2017, <https://nyti.ms/2pX82OV>; Justin Florence, *What's the Legal Basis for the Syria Strikes? The Administration Must Acknowledge Limits on its Power to Start a War*, Lawfare, May 8, 2017, <https://www.lawfareblog.com/whats-legal-basis-syria-strikes-administration-must-acknowledge-limits-its-power-start-war>.

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); *Nat’l Sec. Archive v. Dep’t of Def.*, 880 F.2d 1381, 1387 (D.C. Cir. 1989). The Brennan Center and The Protect Democracy Project are therefore entitled to a waiver of search and review fees pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II).

As a noncommercial requester, the Brennan Center also qualifies for waivers as an “educational institution” pursuant to 41 C.F.R. § 105-60.305-10 and 41 C.F.R. § 105-60.305-1 because it is affiliated with the NYU School of Law, which is plainly an educational institution.

The Brennan Center and The Protect Democracy Project are also entitled to a waiver of all fees, including duplication fees, pursuant to 5 U.S.C. § 552(a)(4)(A)(iii) and 41 C.F.R. § 105-60.305-13. First, the subject of the requested records clearly concerns “the operations or activities of the federal government.” Disclosure of the requested records is therefore in the public interest because it is likely to contribute significantly to public understanding of how the government is regulating elections, which is plainly of interest to the public.

Moreover, disclosure is not primarily in the Brennan Center’s or The Protect Democracy Project’s commercial interests. As stated above, the Brennan Center and The Protect Democracy Project plan to make any information disclosed as a result of this request available to the public at no cost. A fee waiver would therefore fulfill Congress’s legislative intent that FOIA be “liberally construed in favor of waivers for noncommercial requesters.” *McClellan Ecological Situation v. Carlucci*, 835 F.2d 1282, 1284 (9th Cir. 1987) (quoting 132 CONG. REC. 27, 190 (1986) (Statement of Sen. Leahy)).

In the event you deny our waiver request, please contact us if you expect the costs to exceed the amount of \$500.00.

V. Response Requested in 5 Working Days

Your attention to this request is appreciated, and the Brennan Center and The Protect Democracy Project will anticipate your determination regarding our request for expedited processing within five (5) working days. *See* 41 C.F.R. § 105-60.402-2(d). 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).

We also request that you provide us with an estimated completion date, as required by 5 U.S.C. § 552(a)(7)(B)(ii). If the request is denied in whole or in part, we ask that you justify all deletions by reference to specific exemptions to FOIA. We expect the release of all segregable portions of otherwise exempt material. We reserve the right to appeal a decision to withhold any information or to deny a waiver of fees.

Please furnish all applicable records to:

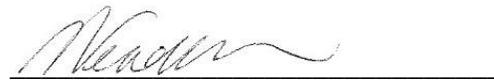
Wendy R. Weiser
Director, Democracy Program
Brennan Center for Justice at NYU School of Law
120 Broadway, Suite 1750
New York, NY 10271
(646) 292-8310
www.brennancenter.org

Should you have any questions regarding this request, please contact Ms. Weiser at the address above, by telephone at (646) 292-8310, or by e-mail at weiserw@brennan.law.nyu.edu; or Larry Schwartztol by telephone at (202) 599-0466 or by email at larry.schwartztol@protectdemocracy.org.

Sincerely,



Larry Schwartztol, Counsel
The Protect Democracy Project
2020 Pennsylvania Ave NW, #163
Washington, DC 20006



Wendy Weiser, Director
Tomas Lopez, Counsel
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Brennan Center for Justice at NYU School
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BRENNAN
CENTER
FOR JUSTICE
TWENTY
YEARS

The **Protect -**
Democracy
Project 

at New York University School of Law

Via Certified Mail and Electronic Submission

July 25, 2017

Dionne Hardy
FOIA Officer
Office of Management and Budget
1800 G Street, NW
Washington, DC 20503

Sarah Whittle Spooner
Public Liaison and Chief FOIA Officer
Office of Management and Budget
1800 G Street, NW
Washington, DC 20503

Re: Freedom of Information Act Request, Request for Expedited Processing and Fee Waiver

Dear Ms. Hardy and Ms. Spooner:

This is a request on behalf of the Brennan Center for Justice at NYU School of Law and the Protect Democracy Project to the Office of Management and Budget (“OMB”) under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552. It is also a request for expedited processing under 5 U.S.C. § 552(a)(6)(E) and 5 C.F.R. § 1303.10(d), and for a fee waiver under 5 U.S.C. §§ 552(a)(4)(A)(ii) & (iii) and 5 C.F.R. § 1303.70.

I. Background

President Trump issued Executive Order 13799, creating a “Presidential Advisory Commission on Election Integrity” (the “Commission”), purportedly “to promote fair and honest Federal elections.” According to the Executive Order, the Commission shall “study the registration and voting processes used in Federal elections... and shall submit a report to the President that identifies... those laws, rules, policies, activities, strategies, and practices” that either “enhance” or “undermine ... the American people’s confidence in the integrity of the voting processes used in Federal elections;” and “those vulnerabilities in voting systems and practices used for Federal elections that could lead to improper voter registrations and improper

voting, including fraudulent voter registrations and fraudulent voting.” The Executive Order excludes examination of pressing vulnerabilities in elections systems, like the nation’s aging voting equipment, and fails to reference any investigation into voter suppression efforts or voter turnout issues.

The Commission is chaired by the Vice President of the United States and, per the Executive Order, “shall be informed by, and shall strive to avoid duplicating, the efforts of existing government entities.”

The Order also provides for “staff to provide support for [the Commission’s] functions.” Further, “subject to the availability of appropriations, the General Services Administration shall provide the Commission with such administrative services, funds, facilities, staff, equipment, and other support services as may be necessary to carry out its mission on a reimbursable basis.”

On May 17, 2017, the Brennan Center for Justice at NYU School of Law and The Protect Democracy Project submitted a FOIA request (“Initial FOIA Request”) to OMB, a copy of which is attached hereto as Exhibit A. On May 18, 2017, OMB acknowledged receipt of the Initial FOIA Request and assigned it reference number 2017-231.

On June 28, 2017, the Commission’s vice chair, Kansas Secretary of State Kris Kobach, sent letters to chief state election officials requesting they submit “publicly-available data from state voter rolls and feedback on how to improve election integrity” by July 14. The Commission explained that “any documents that are submitted to the full Commission will also be made available to the public.” Civic groups, including the Brennan Center, challenged the Commission’s requests in court,¹ and the Commission subsequently asked states to hold off submitting data pending a court ruling.²

President Trump attended and spoke at the Commission’s first meeting, which took place on July 19, 2017. The Commission has scheduled its next meeting for September 2017.

II. Formal Request

The Brennan Center for Justice at NYU School of Law and The Protect Democracy Project request, to the extent the following are in the possession, custody, or control of OMB:

1. All communications and documents subject to the Initial FOIA Request, reference number 2017-231, created, dated, identified, or modified subsequent to any search previously undertaken by OMB in response to the Initial Request.
2. All communications and documents regarding use of the following databases for any purpose related to the Presidential Advisory Commission on Election Integrity, whether

¹ *Legal Actions Taken Against Trump’s “Voter Fraud” Commission*, Brennan Center for Justice (updated July 21, 2017), <https://www.brennancenter.org/legal-actions-taken-against-trump%E2%80%99s-%E2%80%9Cfraud%E2%80%9D-commission>.

² Spencer S. Hsu, *Trump voting panel tells states to hold off sending data while court weighs privacy impact*, Wash. Post (July 10, 2017), http://wapo.st/2tBvySS?tid=ss_mail&utm_term=.f7ce56635876.

by any employee of DHS or by any commissioner, officer, agent, employee, or assignee of the Presidential Advisory Commission on Election Integrity:

- a. The Systematic Alien Verification for Entitlements (“SAVE”) program;
 - b. The National Security Entry-Exit Registration Systems (“NSEERS”) program;
 - c. Any cross-state voter database programs, including but not limited to the Electronic Registration Information Center (“ERIC”) and Interstate Voter Registration Crosscheck (“IVRC”) program;
 - d. Any list, program, or other resource that contains or can be used to determine the citizenship status of any individual;
 - e. Any other federal database for the purpose of matching, verifying, or investigating information on voter registration lists, including all lists to which the Commission was granted access.
3. All communications and documents concerning the Presidential Advisory Commission on Election Integrity, including but not limited to emails, memoranda, and letters to state election officials regarding the requests for narrative responses and voter file data sent by the Commission on or around June 28, 2017.
 4. All communications and documents concerning the application of the Paperwork Reduction Act to the correspondence sent by the Presidential Advisory Commission on Election Integrity to state election officials on or around June 28, 2017.
 5. All communications and documents identifying the names and titles of OMB officers, agents, employees, or assignees on detail or assignment to the Commission, the Executive Office of the President (“EOP”), or other agency or government entity to work with or on behalf of the Commission, including but not limited to memoranda of understanding with the Commission, EOP, or other agency or government entity outlining such individuals’ responsibilities while on detail or assignment.
 6. All communications and documents regarding the selection of members of the Commission, including but not limited to selection criteria.
 7. All communications and documents regarding the staffing of the Commission, including but not limited to job descriptions, organization charts, and criteria for hiring.
 8. All communications and documents regarding OMB expenditures directly or indirectly related to the Commission and Commission activities.
 9. All communications and documents regarding the Commission’s July 19, 2017 meeting, including but not limited to communications and documents concerning the meeting agenda, staffing, location, and budget and any notes or transcripts of the meeting proceedings.

10. All communications and documents describing the processing of this request, including records sufficient to identify search terms used and locations and custodians searched, and any tracking sheets used to track the processing of this request. If OMB uses FOIA questionnaires or certifications completed by individual custodians or components to determine whether they possess responsive materials or to describe how they conducted searches, we also request any such records prepared in connection with the processing of this request.

Definitions

As used in this request—

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“*Presidential Advisory Commission on Election Integrity*” means the commission created pursuant to the Executive Order on “Establishment of Presidential Advisory Commission on Election Integrity,” signed by President Donald Trump on May 11, 2017, or any effort to establish any task force, commission, or committee, whether through a government agency or not, to investigate voter fraud, vote suppression, or any other aspect of the voting system.

Unless otherwise noted, the request includes documents and communications dated, created, identified, or modified between November 8, 2016 and the date of OMB’s search.

We request that responsive electronic records be provided electronically, in a text-searchable, static-image (PDF) format (in the best image quality available to the agency), pursuant to 5 U.S.C. § 552(a)(3)(A)(B) and (C).

III. Request for Expedited Processing

The Brennan Center and The Protect Democracy Project request expedited processing pursuant to 5 U.S.C. § 552(a)(6)(E) and 5 C.F.R. § 1303.10(d). The Brennan Center and The Protect Democracy Project intend to disseminate the information obtained in response to this request to enable the public to effectively monitor, evaluate, participate in, and respond to the work of the Commission, which has begun in earnest. The Commission has attempted to collect and make public voter information from all 50 states, held an introductory meeting led by the Vice President and featuring remarks by the President, and plans to meet again this September. Both the Commission and the issue of voter fraud have generated extensive public interest and media coverage, reflecting the public's urgent concern about election integrity.³ Accordingly, this request meets the criteria for expedited processing because there is "[a]n urgency to inform the public about an actual or alleged Federal Government activity" and this request concerns "[a] matter of widespread and exceptional media interest in which there exist possible questions about the government's integrity which affect public confidence." 5 C.F.R. § 1303.10(d)(ii) and (iv).

The Brennan Center and The Protect Democracy Project are section 501(c)(3) non-profit organizations that are "primarily engaged in disseminating information" within the meaning of 5 U.S.C. § 552(a)(6)(E)(v)(II) and 5 C.F.R. § 1303.10(d)(ii). The Brennan Center regularly writes and publishes reports and newspaper articles and makes appearances on various media outlets regarding the fight to preserve and expand the right to vote for every eligible citizen. Through practical policy proposals, litigation, advocacy, and communications, the Brennan Center works to ensure that voting is free, fair, and accessible for all Americans.⁴

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⁴ A list of the Brennan Center's recent publications is available at <http://www.brennancenter.org/content/resources/publications>.

demonstrated the ability to disseminate information about its FOIA requests to a wide audience.⁵ The Protect Democracy Project has been recognized as an organization that meets this standard. *Protect Democracy Project, Inc. v. U.S. Dep't of Def.*, No. 17-CV-00842 (CRC), 2017 WL 2992076 (D.D.C. July 13, 2017). The Protect Democracy Project has no commercial interests.

Furthermore, the Brennan Center and The Protect Democracy Project urgently require the information sought by this request in order to inform the public of federal government activity. *See* 5 U.S.C. § 552(a)(6)(E)(v)(II); 5 C.F.R. § 1303.10(d)(ii). The information requested herein concerns federal government activity that is of vital interest to the general public. The Brennan Center and The Protect Democracy Project intend to share any new information about the Commission and the integrity of federal elections obtained from this request with the public.

In order to adequately inform the public and to monitor the Commission, the Brennan Center and The Protect Democracy Project need this information expeditiously. The information sought in this request is critical for the public's monitoring and evaluation of and response to those immediate activities. The information is also critical to public evaluation and monitoring of the Commission's work, to pursue its mission of determining which "laws, rules, policies, activities, strategies, and practices" enhance or undermine public confidence in elections and what vulnerabilities exist in America's voting systems—work which the Commission has already started. Effective public monitoring and involvement is urgently needed given the importance of the topics the Commission is charged with addressing.

IV. Application for Waiver or Limitation of All Fees

The Brennan Center and The Protect Democracy Project request a waiver of all search, review, and duplication fees associated with this request. The Brennan Center and the Protect Democracy Project are eligible for a waiver of search and review fees pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II) and 5 C.F.R. § 1303.70, and for a waiver of all fees, including duplication fees, pursuant to 5 U.S.C. § 552(a)(4)(A)(iii) and 5 C.F.R. § 1303.70.

First, the Brennan Center and The Protect Democracy Project plan to analyze, publish, and publicly disseminate information obtained from this request. The requested records are not sought for commercial use and will be disclosed to the public at no cost.

Second, the Brennan Center and The Protect Democracy Project qualify as "representative[s] of the news media" for the same reasons that they are "primarily engaged in dissemination of information," i.e., because the Brennan Center and The Protect Democracy Project "gather[] information of potential interest to a segment of the public, uses its editorial

⁵ *See, e.g.*, Lisa Rein, *Watchdog group, citing "integrity of civil service," sues Trump to find out if feds are being bullied*, Wash. Post, Apr. 27, 2017, https://www.washingtonpost.com/news/powerpost/wp/2017/04/27/watchdog-group-citing-integrity-of-civil-service-sues-trump-to-find-out-if-feds-are-being-bullied/?utm_term=.8647ab128f3e; Ben Berwick, *Going to Court for Civil Servants, Take Care*, April 28, 2017, <https://takecareblog.com/blog/going-to-court-for-civil-servants>; Charlie Savage, *Watchdog Group Sues Trump Administration, Seeking Legal Rationale Behind Syria Strike*, N.Y. Times, May 8, 2017, <https://nyti.ms/2pX82OV>; Justin Florence, *What's the Legal Basis for the Syria Strikes? The Administration Must Acknowledge Limits on its Power to Start a War*, Lawfare, May 8, 2017, <https://www.lawfareblog.com/whats-legal-basis-syria-strikes-administration-must-acknowledge-limits-its-power-start-war>.

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); *Nat’l Sec. Archive v. Dep’t of Def.*, 880 F.2d 1381, 1387 (D.C. Cir. 1989). The Brennan Center and The Protect Democracy Project are therefore entitled to a waiver of search and review fees pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II) and 5 C.F.R. § 1303.70.

As a noncommercial requester, the Brennan Center also qualifies for waivers as an “educational institution” pursuant to 5 C.F.R. § 1303.30, 5 C.F.R. § 1303.50 and 5 C.F.R. § 1303.70 because it is affiliated with the NYU School of Law, which is plainly an educational institution.

The Brennan Center and The Protect Democracy Project are also entitled to a waiver of all fees, including duplication fees, pursuant to 5 U.S.C. § 552(a)(4)(A)(iii) and 5 C.F.R. § 1303.70. First, the subject of the requested records clearly concerns “the operations or activities of the federal government.” Disclosure of the requested records is therefore in the public interest because it is likely to contribute significantly to public understanding of how the government is regulating elections, which is plainly of interest to the public.

Moreover, disclosure is not primarily in the Brennan Center’s or The Protect Democracy Project’s commercial interests. As stated above, the Brennan Center and The Protect Democracy Project plan to make any information disclosed as a result of this request available to the public at no cost. A fee waiver would therefore fulfill Congress’s legislative intent that FOIA be “liberally construed in favor of waivers for noncommercial requesters.” *McClellan Ecological Situation v. Carlucci*, 835 F.2d 1282, 1284 (9th Cir. 1987) (quoting 132 CONG. REC. 27, 190 (1986) (Statement of Sen. Leahy)).

In the event you deny our waiver request, please contact us if you expect the costs to exceed the amount of \$500.00.

V. Response Requested in 10 Days

Your attention to this request is appreciated, and the Brennan Center and The Protect Democracy Project will anticipate your determination regarding our request for expedited processing within ten (10) calendar days. *See* 5 U.S.C. § 552(a)(6)(E)(ii)(I); 5 C.F.R. § 1303.10(d)(4). 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).

We also request that you provide us with an estimated completion date, as required by 5 U.S.C. § 552(a)(7)(B)(ii). If the request is denied in whole or in part, we ask that you justify all deletions by reference to specific exemptions to FOIA. We expect the release of all segregable portions of otherwise exempt material. We reserve the right to appeal a decision to withhold any information or to deny a waiver of fees.

Please furnish all applicable records to:

Wendy R. Weiser
Director, Democracy Program
Brennan Center for Justice at NYU School of Law
120 Broadway, Suite 1750
New York, NY 10271
(646) 292-8310
www.brennancenter.org

Should you have any questions regarding this request, please contact Ms. Weiser at the address above, by telephone at (646) 292-8310, or by e-mail at weiserw@brennan.law.nyu.edu; or Larry Schwartztol by telephone at (202) 599-0466 or by email at larry.schwartztol@protectdemocracy.org.

Sincerely,



Larry Schwartztol, Counsel
The Protect Democracy Project
2020 Pennsylvania Ave NW, #163
Washington, DC 20006



Wendy Weiser, Director
Tomas Lopez, Counsel
Democracy Program
Brennan Center for Justice at NYU School
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120 Broadway, Suite 1750
New York, New York 10271

BRENNAN
CENTER
FOR JUSTICE
TWENTY
YEARS

The **Protect -**
Democracy
Project 

at New York University School of Law

Via Certified Mail and Electronic Submission

July 25, 2017

Jonathan Cantor
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

Re: Freedom of Information Act Request, Request for Expedited Processing and Fee Waiver

Dear Mr. Cantor:

This is a request on behalf of the Brennan Center for Justice at NYU School of Law and the Protect Democracy Project to the Department of Homeland Security (“DHS”) under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552. It is also a request for expedited processing under 5 U.S.C. § 552(a)(6)(E) and 6 C.F.R. § 5.5(e), and for a fee waiver under 5 U.S.C. §§ 552(a)(4)(A)(ii) & (iii) and 6 C.F.R. § 5.11.

I. Background

President Trump issued Executive Order 13799, creating a “Presidential Advisory Commission on Election Integrity” (the “Commission”), purportedly “to promote fair and honest Federal elections.” According to the Executive Order, the Commission shall “study the registration and voting processes used in Federal elections... and shall submit a report to the President that identifies... those laws, rules, policies, activities, strategies, and practices” that either “enhance” or “undermine ... the American people’s confidence in the integrity of the voting processes used in Federal elections;” and “those vulnerabilities in voting systems and practices used for Federal elections that could lead to improper voter registrations and improper voting, including fraudulent voter registrations and fraudulent voting.” The Executive Order excludes examination of pressing vulnerabilities in elections systems, like the nation’s aging voting equipment, and fails to reference any investigation into voter suppression efforts or voter turnout issues.

The Commission is chaired by the Vice President of the United States and, per the Executive Order, “shall be informed by, and shall strive to avoid duplicating, the efforts of existing government entities.”

The Order also provides for “staff to provide support for [the Commission’s] functions.” Further, “subject to the availability of appropriations, the General Services Administration shall provide the Commission with such administrative services, funds, facilities, staff, equipment, and other support services as may be necessary to carry out its mission on a reimbursable basis.”

On May 17, 2017, the Brennan Center for Justice at NYU School of Law and The Protect Democracy Project submitted a FOIA request (“Initial FOIA Request”) to DHS, a copy of which is attached hereto as Exhibit A. On May 19, 2017, DHS acknowledged receipt of the Initial FOIA Request and assigned it reference number 2017-HQFO-00794.

On June 28, 2017, the Commission’s vice chair, Kansas Secretary of State Kris Kobach, sent letters to chief state election officials requesting they submit “publicly-available data from state voter rolls and feedback on how to improve election integrity” by July 14. The Commission explained that “any documents that are submitted to the full Commission will also be made available to the public.” Civic groups, including the Brennan Center, challenged the Commission’s requests in court,¹ and the Commission subsequently asked states to hold off submitting data pending a court ruling.²

President Trump attended and spoke at the Commission’s first meeting, which took place on July 19, 2017. The Commission has scheduled its next meeting for September 2017.

II. Formal Request

The Brennan Center for Justice at NYU School of Law and The Protect Democracy Project request, to the extent the following are in the possession, custody, or control of DHS:

1. All communications and documents subject to the Initial FOIA Request, reference number 2017-HQFO-00794, created, dated, identified, or modified subsequent to any search previously undertaken by DHS in response to the Initial Request.
2. All communications and documents regarding use of the following databases for any purpose related to the Presidential Advisory Commission on Election Integrity, whether by any employee of DHS or by any commissioner, officer, agent, employee, or assignee of the Presidential Advisory Commission on Election Integrity:
 - a. The Systematic Alien Verification for Entitlements (“SAVE”) program;
 - b. The National Security Entry-Exit Registration Systems (“NSEERS”) program;

¹ *Legal Actions Taken Against Trump’s “Voter Fraud” Commission*, Brennan Center for Justice (updated July 21, 2017), <https://www.brennancenter.org/legal-actions-taken-against-trump%E2%80%99s-%E2%80%9Cfraud%E2%80%9D-commission>.

² Spencer S. Hsu, *Trump voting panel tells states to hold off sending data while court weighs privacy impact*, Wash. Post (July 10, 2017), http://wapo.st/2tBvySS?tid=ss_mail&utm_term=.f7ce56635876.

- c. Any cross-state voter database programs, including but not limited to the Electronic Registration Information Center (“ERIC”) and Interstate Voter Registration Crosscheck (“IVRC”) program;
 - d. Any list, program, or other resource that contains or can be used to determine the citizenship status of any individual;
 - e. Any other federal database for the purpose of matching, verifying, or investigating information on voter registration lists, including all lists to which the Commission was granted access.
3. All communications and documents concerning the Presidential Advisory Commission on Election Integrity, including but not limited to emails, memoranda, and letters to state election officials regarding the requests for narrative responses and voter file data sent by the Commission on or around June 28, 2017.
 4. All communications and documents identifying the names and titles of DHS officers, agents, employees, or assignees on detail or assignment to the Commission, the Executive Office of the President (“EOP”), or other agency or government entity to work with or on behalf of the Commission, including but not limited to memoranda of understanding with the Commission, EOP, or other agency or government entity outlining such individuals’ responsibilities while on detail or assignment.
 5. All communications and documents regarding the selection of members of the Commission, including but not limited to selection criteria.
 6. All communications and documents regarding the staffing of the Commission, including but not limited to job descriptions, organization charts, and criteria for hiring.
 7. All communications and documents regarding DHS expenditures directly or indirectly related to the Commission and Commission activities.
 8. All communications and documents regarding the Commission’s July 19, 2017 meeting, including but not limited to communications and documents concerning the meeting agenda, staffing, location, and budget and any notes or transcripts of the meeting proceedings.
 9. All communications and documents concerning the Commission’s research or investigatory activities, including but not limited to communications and documents concerning the Commission’s research methodologies, identification of experts, consultation with experts, and materials reviewed in connection with the Commission’s research and investigatory activities.
 10. All communications and documents describing the processing of this request, including records sufficient to identify search terms used and locations and custodians searched, and any tracking sheets used to track the processing of this request. If DHS uses FOIA questionnaires or certifications completed by individual custodians or components to determine whether they possess responsive materials or to describe how they conducted

searches, we also request any such records prepared in connection with the processing of this request.

Definitions

As used in this request—

“*Collaborative Work Environment*” means a platform used to create, edit, review, approve, store, organize, share, and access documents and information by and among authorized users, potentially in diverse locations and with different devices. Collaborative Work Environments include Google Docs sites, Microsoft SharePoint sites, eRooms, document management systems (e.g., iManage), intranets, web content management systems (CMS) (e.g., Drupal), wikis, and blogs.

“*Communications*” means disclosure, transfer, or exchange of information or opinion, however made, including any transmission of information by oral, graphic, written, pictorial, electronic, or other perceptible means.

“*Documents*” means all written, printed, or electronically stored information of any kind in the possession, custody, or control of DHS, including information stored on social media accounts like Twitter or Facebook, chats, instant messages, and documents contained in Collaborative Work Environments and other document databases. The term includes agreements; letters; calendar appointments; telegrams; inter-office communications; memoranda; reports; records; instructions; notes; notebooks; diaries; plans; diagrams; photographs; photocopies; charts; descriptions; drafts, whether or not they resulted in a final document; agendas and minutes of meetings, conferences, and telephone or other conversations or communications; recordings; published or unpublished speeches or articles; publications; transcripts of telephone conversations; phone mail; electronic-mail; and computer print-outs.

“*Including*” means including, but not limited to.

“*Presidential Advisory Commission on Election Integrity*” means the commission created pursuant to the Executive Order on “Establishment of Presidential Advisory Commission on Election Integrity,” signed by President Donald Trump on May 11, 2017, or any effort to establish any task force, commission, or committee, whether through a government agency or not, to investigate voter fraud, vote suppression, or any other aspect of the voting system.

Unless otherwise noted, the request includes documents and communications dated, created, identified, or modified between November 8, 2016 and the date of DHS’s search.

We request that responsive electronic records be provided electronically, in a text-searchable, static-image (PDF) format (in the best image quality available to the agency), pursuant to 5 U.S.C. § 552(a)(3)(A)(B) and (C).

III. Request for Expedited Processing

The Brennan Center and The Protect Democracy Project request expedited processing pursuant to 5 U.S.C. § 552(a)(6)(E) and 6 C.F.R. § 5.5(e). The Brennan Center and The Protect

Democracy Project intend to disseminate the information obtained in response to this request to enable the public to effectively monitor, evaluate, participate in, and respond to the work of the Commission, which has begun in earnest. The Commission has attempted to collect and make public voter information from all 50 states, held an introductory meeting led by the Vice President and featuring remarks by the President, and plans to meet again this September. Both the Commission and the issue of voter fraud have generated extensive public interest and media coverage, reflecting the public's urgent concern about election integrity.³ Accordingly, this request meets the criteria for expedited processing because there is "[a]n urgency to inform the public about an actual or alleged Federal Government activity" and this request concerns "[a] matter of widespread and exceptional media interest in which there exist possible questions about the government's integrity which affect public confidence." 6 C.F.R. § 5.5(e)(1)(ii) and (iv).

The Brennan Center and The Protect Democracy Project are section 501(c)(3) non-profit organizations that are "primarily engaged in disseminating information" within the meaning of 5 U.S.C. § 552(a)(6)(E)(v)(II) and 6 C.F.R. § 5.5(e)(1)(ii). The Brennan Center regularly writes and publishes reports and newspaper articles and makes appearances on various media outlets regarding the fight to preserve and expand the right to vote for every eligible citizen. Through practical policy proposals, litigation, advocacy, and communications, the Brennan Center works to ensure that voting is free, fair, and accessible for all Americans.⁴

The core mission of The Protect Democracy Project, a new organization awaiting 501(c)(3) status, is to inform public understanding on operations and activities of the government. This request is submitted in accordance with the organization's mission to gather and disseminate information that is likely to contribute significantly to the public understanding of executive branch operations and activities. The Protect Democracy Project has routinely demonstrated the ability to disseminate information about its FOIA requests to a wide audience.⁵

³ See, e.g., Ed. Board, *The Bogus Voter-Fraud Commission*, N.Y. Times, Jul. 22, 2017, <https://www.nytimes.com/2017/07/22/opinion/sunday/the-bogus-voter-fraud-commission.html>; Vann R. Newkirk II, *Trump's Voter-Fraud Commission Has Its First Meeting*, Atlantic, Jul. 19, 2017, <https://www.theatlantic.com/politics/archive/2017/07/trumps-voter-fraud-commission-runs-into-a-roadblock/534084/>; Liz Stark & Grace Hauck, *Forty-four states and DC have refused to give certain voter information to Trump commission*, CNN, Jul. 5, 2017, <http://www.cnn.com/2017/07/03/politics/kris-kobach-letter-voter-fraud-commission-information/index.html>; CBS News, *Trump "voter fraud" commission seeking data from all states*, June 30, 2017, <http://www.cbsnews.com/news/trump-voter-fraud-commission-seeking-voter-data-from-all-states/>; Ali Vitali, Peter Alexander & Kelly O'Donnell, *Trump Establishes Voter Fraud Commission*, NBC News, May 11, 2017, <http://www.nbcnews.com/politics/white-house/trump-establish-vote-fraud-commission-n757796>.

⁴ A list of the Brennan Center's recent publications is available at <http://www.brennancenter.org/content/resources/publications>.

⁵ See, e.g., Lisa Rein, *Watchdog group, citing "integrity of civil service," sues Trump to find out if feds are being bullied*, Wash. Post, Apr. 27, 2017, https://www.washingtonpost.com/news/powerpost/wp/2017/04/27/watchdog-group-citing-integrity-of-civil-service-sues-trump-to-find-out-if-feds-are-being-bullied/?utm_term=.8647ab128f3e; Ben Berwick, *Going to Court for Civil Servants*, Take Care, April 28, 2017, <https://takecareblog.com/blog/going-to-court-for-civil-servants>; Charlie Savage, *Watchdog Group Sues Trump Administration, Seeking Legal Rationale Behind Syria Strike*, N.Y. Times, May 8, 2017, <https://nyti.ms/2pX82OV>; Justin Florence, *What's the Legal Basis for the Syria Strikes? The Administration Must Acknowledge Limits on its Power to Start a War*, Lawfare, May 8,

The Protect Democracy Project has been recognized as an organization that meets this standard. *Protect Democracy Project, Inc. v. U.S. Dep't of Def.*, No. 17-CV-00842 (CRC), 2017 WL 2992076 (D.D.C. July 13, 2017). The Protect Democracy Project has no commercial interests.

Furthermore, the Brennan Center and The Protect Democracy Project urgently require the information sought by this request in order to inform the public of federal government activity. *See* 5 U.S.C. § 552(a)(6)(E)(v)(II); 6 C.F.R. § 5.5(e)(1)(ii). The information requested herein concerns federal government activity that is of vital interest to the general public. The Brennan Center and The Protect Democracy Project intend to share any new information about the Commission and the integrity of federal elections obtained from this request with the public.

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IV. Application for Waiver or Limitation of All Fees

The Brennan Center and The Protect Democracy Project request a waiver of all search, review, and duplication fees associated with this request. The Brennan Center and the Protect Democracy Project are eligible for a waiver of search and review fees pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II) and 6 C.F.R. § 5.11(k), and for a waiver of all fees, including duplication fees, pursuant to 5 U.S.C. § 552(a)(4)(A)(iii) and 6 C.F.R. § 5.11(k).

First, the Brennan Center and The Protect Democracy Project plan to analyze, publish, and publicly disseminate information obtained from this request. The requested records are not sought for commercial use and will be disclosed to the public at no cost.

Second, the Brennan Center and The Protect Democracy Project qualify as "representative[s] of the news media" for the same reasons that they are "primarily engaged in dissemination of information," i.e., because the Brennan Center and The Protect Democracy Project "gather[] 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); *Nat'l Sec. Archive v. Dep't of Def.*, 880 F.2d 1381, 1387 (D.C. Cir. 1989). The Brennan Center and The Protect Democracy Project are therefore entitled to a waiver of search and review fees pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II) and 6 C.F.R. § 5.11(k).

2017, <https://www.lawfareblog.com/whats-legal-basis-syria-strikes-administration-must-acknowledge-limits-its-power-start-war>.

As a noncommercial requester, the Brennan Center also qualifies for waivers as an “educational institution” pursuant to 6 C.F.R. § 5.11 because it is affiliated with the NYU School of Law, which is plainly an educational institution.

The Brennan Center and The Protect Democracy Project are also entitled to a waiver of all fees, including duplication fees, pursuant to 5 U.S.C. § 552(a)(4)(A)(iii) and 6 C.F.R. § 5.11(k). First, the subject of the requested records clearly concerns “the operations or activities of the federal government.” Disclosure of the requested records is therefore in the public interest because it is likely to contribute significantly to public understanding of how the government is regulating elections, which is plainly of interest to the public.

Moreover, disclosure is not primarily in the Brennan Center’s or The Protect Democracy Project’s commercial interests. As stated above, the Brennan Center and The Protect Democracy Project plan to make any information disclosed as a result of this request available to the public at no cost. A fee waiver would therefore fulfill Congress’s legislative intent that FOIA be “liberally construed in favor of waivers for noncommercial requesters.” *McClellan Ecological Situation v. Carlucci*, 835 F.2d 1282, 1284 (9th Cir. 1987) (quoting 132 CONG. REC. 27, 190 (1986) (Statement of Sen. Leahy)).

In the event you deny our waiver request, please contact us if you expect the costs to exceed the amount of \$500.00.

V. Response Requested in 10 Days

Your attention to this request is appreciated, and the Brennan Center and The Protect Democracy Project will anticipate your determination regarding our request for expedited processing within ten (10) calendar days. *See* 5 U.S.C. § 552(a)(6)(E)(ii)(I); 6 C.F.R. § 5.5(e)(4). 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).

We also request that you provide us with an estimated completion date, as required by 5 U.S.C. § 552(a)(7)(B)(ii). If the request is denied in whole or in part, we ask that you justify all deletions by reference to specific exemptions to FOIA. We expect the release of all segregable portions of otherwise exempt material. We reserve the right to appeal a decision to withhold any information or to deny a waiver of fees.

Please furnish all applicable records to:

Wendy R. Weiser
Director, Democracy Program
Brennan Center for Justice at NYU School of Law
120 Broadway, Suite 1750
New York, NY 10271
(646) 292-8310
www.brennancenter.org

Should you have any questions regarding this request, please contact Ms. Weiser at the address above, by telephone at (646) 292-8310, or by e-mail at weiserw@brennan.law.nyu.edu; or Larry Schwartztol by telephone at (202) 599-0466 or by email at larry.schwartztol@protectdemocracy.org.

Sincerely,



Larry Schwartztol, Counsel
The Protect Democracy Project
2020 Pennsylvania Ave NW, #163
Washington, DC 20006



Wendy Weiser, Director
Tomas Lopez, Counsel
Democracy Program
Brennan Center for Justice at NYU School
of Law
120 Broadway, Suite 1750
New York, New York 10271

EXHIBIT D



BRENNAN CENTER
FOR JUSTICE
TWENTY YEARS

July 3, 2017

The Honorable Mick Mulvaney
Director
The Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

Sent via E-MAIL and FACSIMILE

Dear Director Mulvaney,

We write pursuant to 44 U.S.C. 3517(b) to request that you take appropriate action to remedy sweeping requests by the Presidential Advisory Commission on Election Integrity (“Advisory Commission”) to collect information from state election officials in violation of the Paperwork Reduction Act (“PRA”). The Advisory Commission asked election officials around the country to provide information and opinions on complex issues of election administration and to produce voluminous and sensitive information about individual voters. Yet the Advisory Commission failed to adhere to the PRA’s clear requirements. The PRA exists to protect the public – including state governments – from burdensome requests, especially requests that do not provide adequate safeguards for sensitive information. We therefore ask that, as directed by the statute, you take the “appropriate remedial action” necessary to ensure compliance with the PRA.

1. Relevant PRA Requirements

The PRA sets out the legal framework that governs federal agencies when they collect information from individuals, companies, or other non-federal actors, including state governments. Specifically, it applies to agencies when they initiate a “collection of information.” 44 U.S.C. § 3502(3).¹ Under the statute, an agency “shall not” conduct or sponsor

¹ A “collection of information” includes, among other things, “obtaining, causing to be obtained, soliciting, or requiring the disclosure to third parties or the public of facts or opinions by or for an agency, regardless of form or format, calling for . . . [] answers to identical questions posed to . . . ten or more persons.” 44 U.S.C. § 3502(3). As OMB has recognized, that term is meant to be understood quite broadly. *See* 5 C.F.R. § 1320.3(c)(1). Significantly, “[t]he requirements of

the collection of information unless it complies with detailed procedural requirements. *Id.* § 3507(a) Those requirements include analyzing the need for the collection, the burdens it will impose, and the systems in place for conducting the collection consistently with the overall mandate of the statute; providing a 60-day notice in the Federal Register seeking public comment on the contemplated collection of information; certifying to the Director of the Office of Management and Budget (“OMB”) that the proposed collection comports with the requirements of the statute; and publishing a second notice in the Federal Register describing the proposed collection and notifying commenters that their response may be submitted to the Director. *Id.* (cross-referencing 44 U.S.C. § 3506(c)(1)-(3)). After satisfying those requirements, an agency may only proceed if the Director of OMB has approved the proposed collection and issued a control number to be displayed on the collection of information. *Id.*²

Congress imposed these requirements to advance important values. Among other things, the purposes of the PRA are to avoid undue burdens on the public, including state governments, and to “ensure that the creation, collection, maintenance, use, dissemination, and disposition of information by or for the Federal Government is consistent with applicable laws,” including the protections guaranteed by the Privacy Act. *Id.* at § 3501(1) & (8).

2. The Advisory Commission’s Unlawful Collections of Information About State Voting Systems

The Advisory Commission was established by President Trump on May 11, 2017. *See* Executive Order 13799.³ On or about June 28, 2017, it sent what we believe to be identical letters to Secretaries of State or other election officials in all 50 states.⁴ The letter was signed by Advisory Commission Vice Chair Kris Kobach and appeared on the Advisory Commission’s letterhead. It “invited” recipients to provide information and opinions on several complex policy

the PRA apply to voluntary collections as well as mandatory collections.” Cass R. Sunstein, Administrator Office of Information and Regulatory Affairs, Memorandum for the Heads of Executive Departments and Agencies, and Independent Regulatory Agencies re Information Collection Under the Paperwork Reduction Act (Apr. 7, 2010) (citing 44 U.S.C. § 3502(3); 5 C.F.R. 1320.3(c), *available at* https://obamawhitehouse.archives.gov/sites/default/files/omb/assets/inforeg/PRAPrimer_04072010.pdf.

² Under some circumstances, the Director’s approval may be inferred rather than express. 44 U.S.C. § 3507(c)(3).

³ The Advisory Commission is an “agency” for purposes of the PRA. *See* 44 U.S.C. § 3502(a) (defining “agency” to mean, among other things, an “establishment in the executive branch of the Government (including the Office of the President)”). We note that, in addition to being established by Executive Order, the Advisory Commission is chaired by the Vice President.

⁴ Because the Advisory Commission has not published anything concerning the letters, we are not aware of any public compendium of all letters that were sent. However, letters sent to individual states that have been publicized, as well as responses from several other state governments, suggest that substantially identical letters were sent to election officials in every state. *See generally* Brennan Center for Justice, “State Responses to Commission Requests,” *available at* <https://www.brennancenter.org/latest-updates-fraud-commission>.

questions relating to election administration. It sought, for example, opinions on potential changes to federal election law related to election integrity, “evidence or information” relating to voter fraud, and recommendations for preventing voter intimidation or disenfranchisement. It went on to “request[]” that recipients “provide to the Commission the publicly-available voter roll data for [a recipient’s state], including, if publicly available under the laws of [the recipient’s] state, the full first and last names of all registrants, middle names or initials if available, addresses, dates of birth, political party (if recorded in [the recipient’s] state), last four digits of social security number if available, voter history (elections voted in) from 2006 onward, active/inactive status, cancelled status, information regarding any felony convictions, information regarding voter registration in another state, information regarding military status, and overseas citizen information.” The request directed recipients to submit responses via email or a secure FTP site administered by the Federal government. It advised recipients that “any documents that are submitted to the full Commission will also be made available to the public.” It stated that the Commission “would appreciate a response by July 14, 2017.”

3. The PRA Requires OMB to Remedy These Statutory Violations

The Advisory Commission’s attempt to collect sweeping information about state voting systems violates the PRA. The statute imposes detailed requirements, which the Advisory Commission plainly failed to meet. It was an effort by an agency to collect information from state governments. It did not contain an OMB-issued control number, and it was not subject to advance notice with an opportunity for public comment, much less the two rounds of Federal Register publication and particularized solicitations of public comments mandated by the statute. These violations of the statute’s black-letter requirements suffice to justify intervention by OMB.

Compliance with the PRA’s requirements is especially critical in this context. The request seeks to enlist State officials to compile complex facts and opinions on a tight timeline. It asks them to assemble extensive information about all voters in their states, including categories of information that may be housed in multiple state agencies. It asks them to opine on thorny policy questions and to preform potentially complicated legal analysis to determine at what point disclosing the requested information would transgress state law. The PRA protects state governments from precisely this kind of onerous request.

The reason for the statute’s painstaking procedural requirements is to ensure that agencies carefully balance their desire to collect information against the harms that might flow from doing so without proper safeguards. This is why the statute provides for two rounds of public notice and comment – when an agency enlists non-federal actors into this kind of fact-finding, it should be informed by the views of impacted stakeholders. This is especially true in the context of election administration, where state-level officials have uniquely valuable insight into the potential impact of the requests on voters in their states. Consider the Advisory Commission’s sweeping request for individual voter information. That request – seeking information about how individual Americans exercise fundamental constitutional rights and asking that highly sensitive information be transmitted via email – highlights the importance of the statutory requirement that agencies (among other things) “evaluat[e] the need for the collection of information,” propose a “plan for the collection of the information” and for “the efficient and

effective management and use of the information to be collected,” 44 U.S.C. § 3506(c)(1)(A), and “ensure that the creation, collection, maintenance, use, dissemination, and disposition of the information” is consistent with legal requirements relating to privacy, confidentiality, and security of information, *id.* § 3501(8).⁵ The fact that the Advisory Commission sought such sensitive information without engaging in the careful planning prescribed by the PRA likely explains why a diverse array of state officials have already declined to comply with the requests. *See* Michael Wines, “Asked for Voters’ Data, States Give Trump Panel a Bipartisan ‘No,’” *New York Times* (June 30, 2017). State officials should have a chance to weigh in before the Federal government requests information whose management implicates the foundation of our democracy; so should the voters whose information will be transmitted. The PRA mandates that an agency like the Advisory Commission provide that opportunity.

The PRA also charges you with the responsibility to ensure that federal agencies comply with the statute’s requirements. It also directs you to take action when agencies fail to do so. It provides that “[a]ny person may request the Director [of OMB] to review any collection of information conducted by or for an agency to determine if . . . a person shall maintain, provide, or disclose the information to or for the agency.” *Id.* at § 3517(b). The statute further directs you to respond to the request within 60 days and to “take appropriate remedial action, if necessary.” *Id.* We therefore request that you review the collections of information described in this letter and take necessary remedial action as soon as possible. We further ask that you undertake a review in time to prevent the unlawful collection of information. Because the Advisory Commission seeks responses by July 14, 2017, we ask that you review this matter and take action sufficiently in advance of that deadline to ensure that unlawful collections of sensitive voter information do not go forward.

The PRA reflects a longstanding recognition that when agencies collect information from the public, they must do it in a way that balances legitimate governmental need with the burdens such collections may impose. To ensure that balance, the statute requires agencies to engage with the public before embarking on such collections. The Advisory Commission has plainly violated those requirements. The PRA charges you with overall responsibility to ensure compliance with the statute. Pursuant to 44 U.S.C. 3517(b), we therefore ask that you take immediate action to ensure that collections of information in violation of the statute stop immediately.

⁵ It is particularly significant that the Advisory Commission flouted the PRA’s procedures, which expressly require that agencies ensure consistency with the Privacy Act. The Advisory Commission’s requests for sensitive personal information – including information relating to First Amendment-protected party affiliation – likely violate that statute as well. *See, e.g.*, 5 USC 552a(e)(7) (requiring that agency record systems “maintain no record describing how any individual exercises rights guaranteed by the First Amendment unless expressly authorized by statute or by the individual about whom the record is maintained or unless pertinent to and within the scope of an authorized law enforcement activity”).

Sincerely,



Larry Schwartzol
Counsel, United to Protect Democracy
Larry.Schwartzol@protectdemocracy.org
(202) 599-0466



Wendy Weiser
Director, Democracy Program
Brennan Center for Justice
weiserw@brennan.law.nyu.edu
(646) 292-8310

CC: All Attorneys General for States, the District of Columbia, and U.S. Territories

CC: All Secretaries of State for States, the District of Columbia, and U.S. Territories

CC: General Counsel
The Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

CC: Administrator
Office of Information and Regulatory Affairs
725 17th Street, NW
Washington, DC 20503

EXHIBIT E



BRENNAN CENTER
FOR JUSTICE
TWENTY YEARS

July 5, 2017

John Merrill
Secretary of State of Alabama
PO Box 5616
Montgomery, AL 36103-5616

Dear Secretary Merrill,

We write regarding the letter sent by the Presidential Advisory Commission on Election Integrity (“Advisory Commission”) on July 3, 2017 to election officials around the country. That letter sought sweeping information about state voting systems and extensive, sensitive information regarding individual voters. As you and other election officials in your state determine whether, and to what extent, to disclose the information sought in that request, you may consider the state and federal legal implications of the Advisory Commission’s request. To that end, we wish to share the enclosed letter, which we sent Monday to Mick Mulvaney, Director of the Office of Management and Budget in the White House. As our letter explains, the information request you received from the Advisory Commission failed to comply with federal legal requirements governing requests for information from federal agencies. The legal issues set out in the attached letter are especially urgent given the sweeping nature of the requests, which implicate the state’s ability to maintain sensitive information that is foundational to the democratic process.

We would be happy to answer any questions about the enclosed correspondence or the issues it discusses.

Sincerely,

A handwritten signature in black ink, appearing to read "Larry Schwartztol".

Larry Schwartztol
Counsel, United to Protect Democracy
Larry.Schwartztol@protectdemocracy.org
(202) 599-0466

A handwritten signature in black ink, appearing to read "Wendy Weiser".

Wendy Weiser
Director, Democracy Program
Brennan Center for Justice
weiserw@brennan.law.nyu.edu
(646) 292-8310



BRENNAN CENTER
FOR JUSTICE
TWENTY YEARS

July 5, 2017

Steve Marshall
Attorney General of Alabama
P.O. Box 300152
Montgomery, AL 36130-0152

Dear Attorney General Marshall,

We write regarding the letter sent by the Presidential Advisory Commission on Election Integrity (“Advisory Commission”) on June 28, 2017 to election officials around the country. That letter sought sweeping information about state voting systems and extensive, sensitive information regarding individual voters. As election officials in your state determine whether, and to what extent, to disclose the information sought in that request, they may consider the state and federal legal implications of the Advisory Commission’s request. They may also seek guidance from you or your office in navigating those legal considerations. To that end, we wish to share the enclosed letter, which we sent Monday to Mick Mulvaney, Director of the Office of Management and Budget in the White House. As that letter explains, the information request directed to election officials in your state failed to comply with federal legal requirements governing requests for information from federal agencies. The legal issues set out in the attached letter are especially urgent given the sweeping nature of the requests, which implicate the state’s ability to maintain sensitive information that is foundational to the democratic process.

We would be happy to answer any questions about the enclosed correspondence or the issues it discusses.

Sincerely,

A handwritten signature in black ink, appearing to read "Larry Schwartztol".

Larry Schwartztol
Counsel, United to Protect Democracy
Larry.Schwartztol@protectdemocracy.org
(202) 599-0466

A handwritten signature in black ink, appearing to read "Wendy Weiser".

Wendy Weiser
Director, Democracy Program
Brennan Center for Justice
weiserw@brennan.law.nyu.edu
(646) 292-8310

EXHIBIT F

TAKE CARE

Ensuring the President “shall take Care that the Laws be faithfully executed”

President Trump’s Election Commission Has Already Violated Federal Law

Take Care // 7/5/17 // Commentary

Larry Schwartzol, Counsel, Protect Democracy

It should come as little surprise that President Trump’s election integrity commission has, in its first official move, run afoul of longstanding legal norms. After all, the commission was founded on a false premise

(https://www.washingtonpost.com/opinions/trumps-commission-on-election-integrity-could-instead-restrict-voting/2017/05/12/b9d4fdde-3698-11e7-b373-418f6849a004_story.html?utm_term=.36141ec5a5c6).

And its vice chair and apparent intellectual architect is Kris Kobach (<https://www.nytimes.com/2017/05/14/us/kris-kobach-voter-fraud.html?r=0>), Kansas’ Secretary of State, who has made a name for himself as a connoisseur of voter suppression. (He was also recently sanctioned by a federal court for “deceptive conduct and lack of candor” (<http://www.politico.com/blogs/under-the-radar/2017/06/23/kris-kobach-fined-voting-lawsuit-trump-memo-239910>).”)

On June 28, Kobach signed a letter

(https://www.brennancenter.org/sites/default/files/analysis/PEIC_Letter_to_Connecticut.pdf) from the commission sent to every Secretary of State in the country. The letter sought incredibly broad, and highly sensitive, information about every American voter, including (among other things) names, social security number information, party affiliation, voting history since 2006, and records of any felony convictions. It asked to receive this information by July 14.

Case 1:17-cv-02016-RC Document 231 Filed 11/15/17 Page 46 of 163
The inherent problems with this nationwide fishing expedition are clear. The information is far broader than any legitimate study of election integrity could warrant, reinforcing suspicions that the whole enterprise is a vehicle for voter suppression (<http://www.motherjones.com/politics/2017/06/trump-administrations-request-for-extensive-voter-data-raises-fears-of-suppression/>); it violates federal privacy protections ([/blog/all-your-voter-data-are-belong-to-us](http://blog.all-your-voter-data-are-belong-to-us)) for the government to assemble a master database of voting records, party affiliation and other sensitive information; in an era of Russian hacking of election systems, the centralization of this information – not the mention letter’s invitation to transmit it via email – creates a massive target for hackers (<http://www.politico.com/story/2017/07/01/trump-voter-fraud-panel-hackers-240168>) foreign and domestic.

Dropping this sweeping request on the nation’s election officials also violated federal law. The Paperwork Reduction Act (https://obamawhitehouse.archives.gov/sites/default/files/omb/assets/inforeg/PRAPrimer_04072010.pdf), a law with a longstanding pedigree (if an uninspiring name), governs agencies that want to issue potentially burdensome information requests. The statute covers requests that are mandatory or voluntary, aimed at individuals or organizations. The guiding idea behind the PRA is simple: before the federal government enlists individuals, companies, organizations, or state governments into potentially burdensome fact-finding, it should have a good justification and a well thought out plan.

To that end, the PRA requires federal agencies to satisfy procedural requirements designed to ensure a deliberative approach informed by the people who will feel the effects of federal action. Much of it is basic stuff. Before sending out an information request to more than ten people, a federal agency must articulate a justification for doing so. It must weigh any potential benefits to the government against the burdens that its requests will impose on recipients. It must have a plan for conducting the request and managing the information it receives. Perhaps most importantly, it must engage the public through two rounds of detailed public notification, coupled with opportunities for the public to weigh in. Only then may the agency seek final approval from the White House’s budget office, which oversees compliance with the PRA, to go forward.

The election commission didn’t do any of those things. It simply ignored the statute’s requirements. In other words, its request to every Secretary of State in the country violated federal law.

Kobach’s letter illustrates just why the PRA’s requirements are so important. Those requirements would have ensured that election officials and other interested parties could have explained why such an intrusive request should not have been approved. The individuals actually running state election systems, as well as voters whose data

is at issue, could have scrutinized and responded to the commission's purported justification for the request. Commenters also could have addressed the commission's plan (or lack thereof) for collecting and maintaining information in a way that ensures data integrity and security. These comments would have been available to the White House budget office, and if the commission's proposed data collection failed to pass muster it would be denied.

In other words, the Commission's failure to adhere to the PRA isn't a matter of mere technical non-compliance; it flouted a legal framework whose provisions would have offered a safeguard against a misguided, and potentially quite harmful, national fishing expedition for voter data.

The Director of OMB is legally obligated to address this problem, and he shouldn't let it stand. Earlier this week, my organization, Protect Democracy, along with the Brennan Center for Justice, sent a letter (<https://unitedtoprotectdemocracy.org/wp-content/uploads/2017/07/UPD-BC-OMB-07032017-1.pdf>) to OMB laying out why the commission's request violates the PRA. (Unsurprisingly, we're not the only ones who think so (<https://www.theregreview.org/2017/07/05/shapiro-voter-request-illegal-controversial/>.) As we explained, the statute charges OMB's Director with remedying violations of the statute. He should act swiftly to do so.

But we don't need to count on a White House official to nullify the commission's requests. States should simply refuse to provide the requested data – as many already have (<https://www.nytimes.com/2017/06/30/us/politics/kris-kobach-states-voter-fraud-data.html>). This is why we also sent copies of the OMB letter to every attorney general and secretary of state in the country. For state officials on the fence about whether to provide the data, the PRA should weigh significantly in their decisions. The Kobach letter was, after all, an *unlawful request*. State officials should pause long and hard before turning over such sensitive data – data that is foundational to the democratic process. They should also think about what they plan to tell voters in their state whose information would be transmitted to a haphazardly devised national database – and why they did so to accommodate a request that violated federal law the moment it went out.

Tags:

[Democracy](#) [Voting & Elections](#)

EXHIBIT G

President Trump's Election Commission Has Already Violated Federal Law

Larry Schwartzol, Counsel, Protect Democracy July 5, 2017

It should come as little surprise that President Trump's election integrity commission has, in its first official move, run afoul of longstanding legal norms. After all, the was [founded on a false premise](https://www.washingtonpost.com/opinions/trumps-commission-on-election-integrity-could-instead-restrict-voting/2017/05/12/b9d4fdde-3698-11e7-b373-418f6849a004_story.html?utm_term=.36141ec5a5c6) (https://www.washingtonpost.com/opinions/trumps-commission-on-election-integrity-could-instead-restrict-voting/2017/05/12/b9d4fdde-3698-11e7-b373-418f6849a004_story.html?utm_term=.36141ec5a5c6). And its vice chair and apparent intellectual architect is [Kris Kobach](https://www.nytimes.com/2017/05/14/us/kris-kobach-voter-fraud.html?_r=0) (https://www.nytimes.com/2017/05/14/us/kris-kobach-voter-fraud.html?_r=0), Kansas' Secretary of State, who has made a name for himself as a connoisseur of voter suppression. (He was also recently sanctioned by a federal court for “[deceptive conduct and lack of candor](http://www.politico.com/blogs/under-the-radar/2017/06/23/kris-kobach-fined-voting-lawsuit-trump-memo-239910)” (<http://www.politico.com/blogs/under-the-radar/2017/06/23/kris-kobach-fined-voting-lawsuit-trump-memo-239910>).”)

On June 28, Kobach signed a [letter](https://www.brennancenter.org/sites/default/files/analysis/PEIC_Letter_to_Connecticut.pdf) (https://www.brennancenter.org/sites/default/files/analysis/PEIC_Letter_to_Connecticut.pdf) from the commission sent to every Secretary of State in the country. The letter sought incredibly broad, and highly sensitive, information about every American voter, including (among other things) names, social security number information, party affiliation, voting history since 2006, and records of any felony convictions. It asked to receive this information by July 14.

The inherent problems with this nationwide fishing expedition are clear: the information is far broader than any legitimate study of election integrity could warrant, reinforcing suspicions that the whole enterprise is a vehicle for [voter suppression](http://www.motherjones.com/politics/2017/06/trump-administrations-request-for-extensive-voter-data-raises-fears-of-suppression/) (<http://www.motherjones.com/politics/2017/06/trump-administrations-request-for-extensive-voter-data-raises-fears-of-suppression/>); it [violates federal privacy protections](https://takecareblog.com/blog/all-your-voter-data-are-belong-to-us) (<https://takecareblog.com/blog/all-your-voter-data-are-belong-to-us>) for the government to assemble a master database of voting records, party affiliation and other sensitive information; in an era of Russian hacking of election systems, the centralization of this information – not the mention letter's

invitation to transmit it via email – creates a massive target for [hackers](#)

(<http://www.politico.com/story/2017/07/01/trump-voter-fraud-panel-hackers-240168>) foreign and domestic.

Dropping this sweeping request on the nation's election officials also violated federal law.

The [Paperwork Reduction Act](#)

(https://obamawhitehouse.archives.gov/sites/default/files/omb/assets/inforeg/PRAPrimer_04072010.pdf), a law with a longstanding pedigree (if an uninspiring name), governs agencies that want to issue potentially burdensome information requests. The statute covers requests that are mandatory or voluntary, aimed at individuals or organizations. The guiding idea behind the PRA is simple: before the federal government enlists individuals, companies, organization, or state governments into potentially burdensome fact-finding, it should have a good justification and a well thought out plan.

[Read More at Take Care.](#) (<https://takecareblog.com/blog/president-trump-s-election-commission-has-already-violated-federal-law>)

[Read the Full Letter from Protect Democracy and the Brennan Center to the Office of Management and Budget.](#) (</wp-content/uploads/2017/08/UPD-BC-OMB-07032017-1.pdf>)

Letter to OMB on the Election Integrity Commission and Violation of the Paperwork Reduction Act

Protect Democracy and the Brennan Center write to the Office of Management and Budget on the Advisory Commission's failure to adhere to the PRA's clear requirements in its request of voluminous and sensitive information about individual voters from state officials.

[Read the Letter.](http://protectdemocracy.org/wp-content/uploads/2017/08/UPD-BC-OMB-07032017-1.pdf) (<http://protectdemocracy.org/wp-content/uploads/2017/08/UPD-BC-OMB-07032017-1.pdf>)

Brennan Center and Protect Democracy File Suit to Make “Voter Fraud” Commission Records Public

August 21, 2017

Protect Democracy has been proud to partner with the Brennan Center in raising concerns about the false premises and abuses of power already engaged in by President Trump’s “Election Integrity” Commission. On July 5th, Protect Democracy and the Brennan Center wrote to the Office of Management and Budget, with copies of the letter sent to all 50 states, explaining the the Commission’s intrusive and burdensome data requests plainly violated the letter of the Paperwork Reduction Act, as Larry Schwartzol of Protect Democracy [explained at Take Care](#) (<http://Read More at Take Care>).

Today Protect Democracy and the Brennan Center filed suit to demand details of the Commission’s workings, which have so far been denied to the public despite our FOIA requests. As the Brennan Center explained in its [press release](https://www.brennancenter.org/press-release/brennan-center-and-protect-democracy-file-suit-make-voter-fraud-commission-records) (<https://www.brennancenter.org/press-release/brennan-center-and-protect-democracy-file-suit-make-voter-fraud-commission-records>):

The Brennan Center for Justice at NYU School of Law and Protect Democracy [filed a lawsuit](#) (https://www.brennancenter.org/sites/default/files/legal-work/BCJ_et_al_v_DOJ_et_al.pdf) today in federal court in New York to compel the Department of Justice, the Department of Homeland Security, and the Office of Management and Budget to disclose information to which the public is entitled pertaining to the president’s “Election Integrity” Commission. The organizations filed suit after their [requests](https://www.brennancenter.org/foia-requests-presidential-advisory-commission-election-integrity) (<https://www.brennancenter.org/foia-requests-presidential-advisory-commission-election-integrity>) to the agencies for information under the Freedom of Information Act went unanswered.

The Commission has had its motives and work questioned since it was launched in May, after the president made unfounded claims that voter fraud and noncitizen voting were rampant in the 2016 election. It is co-chaired by Vice President Mike Pence and Kansas Secretary of State Kris Kobach, who has a long history of supporting — and implementing — anti-voter policies.

Plaintiffs argue in today's filing that the public is legally entitled to information about the Commission, which has released very few details about its operations, methods, or intentions. Even commissioners themselves are being left in the dark. Maine Secretary of State Matthew Dunlap, a member of the panel, [said](http://bangordailynews.com/2017/07/27/politics/dunlap-balks-at-trump-fraud-panels-new-request-for-maine-voter-data/) (<http://bangordailynews.com/2017/07/27/politics/dunlap-balks-at-trump-fraud-panels-new-request-for-maine-voter-data/>) commissioners had not discussed the second request for voter data before it was sent to all 50 states.

[Read More at the Brennan Center.](https://www.brennancenter.org/press-release/brennan-center-and-protect-democracy-file-suit-make-voter-fraud-commission-records) (<https://www.brennancenter.org/press-release/brennan-center-and-protect-democracy-file-suit-make-voter-fraud-commission-records>)



Protect Democracy

@protctdemocracy

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Read [@LSchwartztol](#) on our letter with [@BrennanCenter](#):

Trump's Election Commission Has Already Violated Federal Law



President Trump's Election Commission Has Already Violated Federal Law | T...

Larry Schwartztol of Protect Democracy on how Kris Kobach's request for voter information violated federal law.

takecareblog.com

2:55 PM - 5 Jul 2017

44 Retweets 42 Likes



2

44

42



bluedotalabama @bluedotalabama · Jul 5

Replying to [@protctdemocracy](#) [@ShallTakeCare](#) and 2 others

Ach! How those pesky laws get in the way of authoritarianism!

0

1

0



Brennan Center @BrennanCenter · May 22

We & @protctdemocracy filed further records requests to get to the bottom of the President's voter fraud commission. bit.ly/2rAeU2R

BRENNAN
CENTER
FOR JUSTICE
TWENTY
YEARS

The **Protect -**
Democracy
Project

at New York University School of Law

Via Certified Mail and Electronic Submission

May 17, 2017

U.S. General Services Administration
FOIA Requester Service Center (HIF)
1800 F Street, NW, Room 7308
Washington, DC 20405-0001

Re: Freedom of Information Act Request, Request for Expedited Processing and Fee Waiver

Dear Sir/Madam:

This is a request to the General Services Administration under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552. It is also a request for expedited processing under 5 U.S.C. § 552(a)(6)(E) and 41 C.F.R. § 105-60.402-2(c), and for a fee waiver under 5 U.S.C. §§ 552(a)(4)(A)(ii) & (iii) and 41 C.F.R. § 105-60.305-13.

I. Background

President Trump issued Executive Order 13799, creating a "Presidential Advisory Commission on Election Integrity" (the "Commission"), supposedly "to promote fair and honest Federal elections." According to the Executive Order, the Commission shall "study the registration and voting processes used in Federal elections... and shall submit a report to the President that identifies... those laws, rules, policies, activities, strategies, and practices" that either "enhance" or "undermine the American people's confidence in the integrity of the voting processes used in Federal elections;" and "those vulnerabilities in voting systems and practices used for Federal elections that could lead to improper voter registrations and improper voting, including fraudulent voter registrations and

↻ Protect Democracy Retweeted

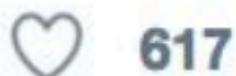
Case 1:17-cv-02016-RC Document 23-1 Filed 11/15/17 Page 156 of 163

Norman Ornstein @NormOrnstein · Jul 19

Kris Kobach and Hans Von Spakovsky are direct threats to the fundamentals of American democracy

John Weaver @JWGOP

Involved in 100s of campaigns. Never saw **voter** fraud. Never had some one come to us with credible claim. Not once. In 35 years. All over USA



Trump propaganda to disenfranchise opposing voters is typical authoritarianism. But also exemplifies that Trump didn't come out of nowhere.

Dale Ho @dale_e_ho

What a joke. Under NH law, someone who moves in from out of state (e.g. a college student) can vote w/ no duty to get a NH license.

[twitter.com/vppressesec/sta...](https://twitter.com/vppressesec/status/911111111111111111)



10



18



Sherrilyn Ifill ✓ @Sifill_LDF · Sep 21

This - along with state-sponsored **voter** suppression laws & policies - is the "election integrity" issue that deserves our urgent attention.

Kyle Griffin ✓ @kylegriffin1

The FBI says as many as 39 states had their voting systems scanned or targeted by Russia. ow.ly/Ql3O30fj3Md



9



503



736

Andrew Cuomo @NYGovCuomo · Jun 30

NY refuses to perpetuate the myth **voter** fraud played a role in our election. We will not comply with this request.



White House Panel Asks States For Their **Voter** Rolls

The panel looking into **voter** fraud allegations wants names, addresses, birthdates, party affiliation and elections voted in since 2006 for every re...

npr.org



1.7K



6.7K



17K



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@protctdemocracy

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Efforts to purge voters are example of anti-democratic tendencies that developed over years, both laid ground work for & embraced by Trump.

Matthew Miller  @matthewamiller

One of the main reasons Sessions is at DOJ: to help states purge voters from the rolls. Disgusting position for the department to take. twitter.com/_justinlevitt_...

5:22 AM - 8 Aug 2017

26 Retweets 49 Likes



 26

 49



Protect Democracy

@protctdemocracy

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Proud to work with [@BrennanCenter](#). Public accountability has already shown results brushing back this bogus Commission, but we can't let up.

New York, NY - The Brennan Center for Justice at NYU School of Law and Protect Democracy filed a lawsuit today in federal court in New York to compel the Department of Justice, the Department of Homeland Security and the Office of Management and Budget to disclose information to which the public is entitled pertaining to the president's "Election Integrity" Commission. The organizations filed it after their requests to the agencies for information under the Freedom of Information Act went unanswered.

Brennan Center [@BrennanCenter](#)

Voters deserve to know how the Commission was put together + what its goals are. bit.ly/2fZsawL

2:43 PM - 21 Aug 2017

26 Retweets 44 Likes



26

44

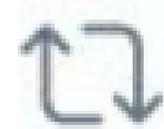
↑ Protect Democracy Retweeted
Case 1:17-cv-02016-RC Document 23-1 Filed 11/15/17 Page 162 of 163

Tammy Duckworth  @SenDuckworth · Jul 11

Joining Senator Klobuchar & colleagues to speak out against President Trump's unlawful voter **suppression** commission → bit.ly/2v9H2uW



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568



Protect Democracy

@protctdemocracy

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As Protect Democracy explained here:
takecareblog.com/blog/president ...

Good to see Senators taking a stand on this principle and this law.

Tammy Duckworth  @SenDuckworth

Replying to @SenDuckworth

The commission also violated a law to protect state&local govts frm unnecessary&burdensome requests frm fed govt — dangerous precedent to set

3:42 PM - 11 Jul 2017

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