

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

ELECTRONIC PRIVACY INFORMATION CENTER

Plaintiff,

v.

PRESIDENTIAL ADVISORY COMMISSION ON
ELECTION INTEGRITY; MICHAEL PENCE, in his
official capacity as Vice Chair of the Presidential Advisory
Commission on Election Integrity; KRIS KOBACH, in his
official capacity as Vice Chair of the Presidential Advisory
Commission on Election Integrity; EXECUTIVE OFFICE
OF THE PRESIDENT OF THE UNITED STATES;
OFFICE OF THE VICE PRESIDENT OF THE UNITED
STATES; GENERAL SERVICES ADMINISTRATION

Defendants.

Civ. Action No. 17-1320 (CKK)

DECLARATION BY ELENI KYRIAKIDES

I, Eleni Kyriakides, declare as follows:

1. My name is Eleni Kyriakides.
2. I am an EPIC Law Fellow at the Electronic Privacy Information Center.
3. In my capacity as a Fellow, I coordinate EPIC's Open Government Project. This includes overseeing EPIC's work using the Freedom of Information Act (FOIA).
4. EPIC makes frequent use of the FOIA to obtain records on government programs implicating privacy and civil liberties. EPIC seeks public disclosure of this information to help ensure that the public is fully informed about the activities of government, and to conduct oversight and analysis of these programs.

5. By refusing to release a Privacy Impact Assessment as required by law, the Defendants have increased the burden on EPIC to conduct its “oversight and analysis” in a more costly and resource-intensive way that would not otherwise be necessary.

6. As a result, I have researched, drafted, and submitted five requests seeking details related to the Commission’s recent activities: one to the U.S. Department of Justice, two to the Commission, one to the General Services Administration, and one to the Arkansas Secretary of State Mark Martin. *See* EPIC Exhibit FOIA Requests.

I declare under penalty of perjury that, to the best of my knowledge, the forgoing is true and correct.

Executed July 17, 2017.

Respectfully Submitted,

/s/ Eleni Kyriakides
Eleni Kyriakides
EPIC Law Fellow

ELECTRONIC PRIVACY
INFORMATION CENTER
1718 Connecticut Avenue, N.W.
Suite 200
Washington, D.C. 20009
(202) 483-1140 (telephone)
(202) 483-1248 (facsimile)

Dated: July 17, 2017

VIA E-MAIL

June 30, 2017

Nelson D. Hermilla, Chief
FOIA/PA Branch
Civil Rights Division
Department of Justice
BICN Bldg., Room 3234
950 Pennsylvania Avenue, NW
Washington, DC 20530
CRT.FOIArequests@usdoj.gov

Dear Mr. Hermilla,

This letter constitutes a request under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552(a)(3), and is submitted on behalf of the Electronic Privacy Information Center (“EPIC”) to the Department of Justice (“DOJ”).

On June 28, 2017, the DOJ wrote to all states covered by the National Voter Registration Act (“NVRA”) with a sweeping request for information regarding state voter registration list maintenance including “All statutes, regulations, written guidance, internal policies, or database user manuals that set out the procedures” the states have in place related to voter registration requirements, any other relevant procedures, and an explanation of the officials responsible for maintaining voter registration lists. The DOJ also sought, for local election officials, descriptions of the steps taken to ensure list maintenance is in “full compliance with the NVRA.”¹ The DOJ gave the states 30 days to comply with the request. The DOJ offered no explanation or justification for the unprecedented time-bound request, stating only that the agency “reviewing voter registration list maintenance procedures in each state covered by the NVRA.”²

Also on June 28, 2017, the Kris Kobach, the Vice Chair of the Presidential Advisory Commission on Election Integrity (“PACIE”), sent a letter to the Secretaries of State for all 50 states and the District of Columbia asking that the states provide the Commission detailed voter information, including

the full first and last names of all registrants, middle names or initials if available, addresses, dates of birth, political party (if recorded in your 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

¹ See, e.g., Letter from T. Christian Herren, Jr., Chief, Voting Section, U.S. Dep’tment of Justice, to Kim Westbrook Strach, Exec. Dir., North Carolina State Bd. Of Elections (June 28, 2017), <https://www.documentcloud.org/documents/3881855-Correspondence-DOJ-Letter-06282017.html>.

² *Id.*

convictions, information regarding voter registration in another state, information regarding military status, and overseas citizen information.³

EPIC seeks two categories of records concerning the DOJ's June 28th request for information on state voter list procedures.

Records Requested

(1) All records, including memoranda, legal analyses, and communications, concerning the DOJ's June 28, 2017 request to the states regarding voter list maintenance; and

(2) All communications between the DOJ and the Presidential Advisory Commission on Election Integrity ("PACEI") regarding the June 28, 2017 PACEI request for state voter data as well as any legal memoranda concerning the authorities of the PACEI.

Request for Expedition

EPIC is entitled to expedited processing of this FOIA request. 5 U.S.C. § 552(a)(6)(E)(v)(II). To warrant expedited processing, under DOJ FOIA regulations a FOIA request must concern a matter of (1) "urgency to inform the public about an actual or alleged federal government activity," and, (2) the request must be "made by a person who is primarily engaged in disseminating information." 28 C.F.R. § 16.5(e)(1)(ii). This request satisfies both requirements.

First, there is an "urgency to inform the public about an actual or alleged federal government activity." § 16.5(e)(1)(ii). The "actual... federal government activity" at issue is DOJ's request to the states covered by the National Voter Registration Act ("NVRA") for information concerning each state's "voter registration list maintenance procedures." The DOJ concedes this activity in letters to the states.⁴

"Urgency" to inform the public about this activity is clear given the extraordinary nature and unusual breadth of the DOJ's request. On June 28, 2017, DOJ requested that all states covered by the NVRA provide to the DOJ *within 30 days* a sweeping list of information about state voting list maintenance. Indeed, former DOJ civil rights official and professor Justin Levitt told *ProPublica* that "he did not recall a time when the DOJ has previously requested such broad information."⁵ Former senior litigator with the DOJ's Voting Section, David Becker called the move "unprecedented":

³ See, e.g. Letter from Presidential Advisory Commission on Election Integrity to Hon. Elaine Marshall, Secretary of State, North Carolina (June 28, 2017), <https://www.documentcloud.org/documents/3881856-Correspondence-PEIC-Letter-to-North-Carolina.html>; See generally EPIC, *Voter Privacy and the PACEI*, <https://epic.org/privacy/voting/pacei/>.

⁴ *Id.*

⁵ Jessica Huseman, *Presidential Commission Demands Massive Amounts of State Voter Data*, *ProPublica* (June 29, 2107), <https://www.propublica.org/article/presidential-commission-demands-massive-amounts-of-state-voter-data>.

In the quarter-century since passage of the NVRA, of which I spent seven years as a DOJ lawyer enforcing the NVRA, among other laws, *I do not know of the DOJ conducting any other broad-based fishing expedition into list maintenance compliance, whether during Democratic or Republican administrations.*⁶

Former deputy assistant general for civil rights Sam Bagnestos warned: “Let’s be clear about what this letter signals: DOJ Civil Rights is preparing to sue states to force them to trim their voting rolls.”⁷

The DOJ’s request also represents a selective review of state voting processes,⁸ without any basis offered for its narrow focus. The NVRA was passed not only to ensure “accurate and current voter registration rolls,” but also “to establish procedures that will increase the number of eligible citizens who register to vote in elections for Federal office” and recognized that “the right of citizens of the United States to vote is a fundamental right.” 52 U.S.C. § 20501. For instance, the DOJ request did not include an information request for compliance NVRA requirements voter registration forms be made easily available for distribution (§ 20505(b)), for simultaneous voter registration while applying for a driver’s license (§ 20505(a)), and that state offices that provide public assistance and services to those with disabilities provide voter registration application forms and assistance (§ 20505(a)(4)(A)).

Despite the extraordinary nature of the request the DOJ offered no explanation or justification for the sudden broad-based request. The DOJ merely cited an agency review of “voter registration list maintenance procedures” in these states,⁹ and “did not respond to requests for comment about the letters.”¹⁰

States have thirty days to respond to the DOJ request. There is an urgent public need for immediate release of information explaining the DOJ’s unprecedented decision to demand this voting list information from states. Moreover, the coincidental request by the PACEI for similar information from the states raises substantial concerns that the DOJ request was part of a coordinated undertaking. The PACEI has given the states approximately two weeks to respond their request.

Second, EPIC is an organization “primarily engaged in disseminating information.” § 16.5(e)(1)(ii). As the Court explained in *EPIC v. Dep’t of Def.*, “EPIC satisfies the definition of

⁶ David Becker, *Why Wednesday’s ‘Election Integrity’ Actions Should Be Watched By States*, Route Fifty (June 29, 2017), <http://www.routefifty.com/management/2017/06/trump-election-integrity-commission-state-voter-data/139107/> (emphasis added).

⁷ @sbagen, Twitter (June 29, 2017, 1:46 PM), <https://twitter.com/sbagen/status/880528035392491520>.

⁸ *Jessica Huseman*, *supra* note 6.

⁹ See Letter from T. Christian Herren, Jr. to Kim Westbrook Strach, Exec. Dir., North Carolina State Bd. Of Elections, *supra* note 1.

¹⁰ *Id.*

‘representative of the news media’” entitling it to preferred fee status under FOIA. 241 F. Supp. 2d 5, 15 (D.D.C. 2003).

In submitting this detailed statement in support of expedited processing, I certify that this explanation is true and correct to the best of my knowledge and belief. § 552(a)(6)(E)(vi).

Request for “News Media” Fee Status and Fee Waiver

EPIC is a “representative of the news media” for fee classification purposes. *EPIC v. Dep’t of Def.*, 241 F. Supp. 2d 5 (D.D.C. 2003). Based on EPIC’s status as a “news media” requester, EPIC is entitled to receive the requested record with only duplication fees assessed. 5 U.S.C. § 552(a)(4)(A)(ii)(II).

Further, any duplication fees should also be waived because disclosure of the requested 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 EPIC. 28 C.F.R. § 16.10(k)(1); § 552(a)(4)(A)(iii). EPIC’s request satisfies the FBI’s three factors for granting a fee waiver. § 16.10(k)(2).

Under the DOJ FOIA regulations, DOJ components evaluate three considerations to determine whether fee waiver is warranted: (i) the “subject of the request must concern identifiable operations or activities of the Federal Government with a connection that is direct and clear, not remote or attenuated”; (ii) disclosure must be “likely to contribute significantly to public understanding of those operations or activities”; and (iii) “disclosure must not be primarily in the commercial interest of the requester.” §§ 16.10(k)(2)(i)–(iii).

First, disclosure of the requested DOJ records concerning the June 28th request to states for “voter registration list maintenance” self-evidently “concerns identifiable operations or activities of the Federal Government with a connection that is direct and clear, not remote or attenuated.” § 16.10(k)(2)(i). This request concerns a direct request from the DOJ to states for information, concerning a law that the DOJ is authorized to enforce.

Second, disclosure “would be likely to contribute significantly to public understanding of those operations or activities” according to the two sub-factors. § 16.10(k)(2)(ii)(A-B). As to the first sub-factor, disclosure would be “meaningfully informative about government operations or activities” because the justification and decision-making underlying for the DOJ’s unprecedented request to states covered by the NVRA has not been made public. § 16.10(k)(2)(ii)(A). Any additional information about how why the DOJ is seeking broad based data under only select provisions of NVRA would thus be “meaningfully informative” about the DOJ request. As to the second sub-factor, disclosure will “contribute to the understanding of a reasonably broad audience of persons interested in the subject,” because, as stated in the relevant FOIA regulations, components will “presume that a representative of the news media will satisfy this consideration.” § 16.10(k)(2)(ii)(B).

Third, disclosure of the requested information is not “primarily in the commercial interest” of EPIC according to the two sub-factors. § 16.10(k)(2)(iii)(A-B). As to the first sub-factor, EPIC

has no “commercial interest...that would be furthered by the requested disclosure.” § 16.10(k)(2)(iii)(A). EPIC is a registered non-profit organization committed to privacy, open government, and civil liberties.¹¹ As to the second sub-factor, “the component must determine whether that is the primary interest furthered by the request” because, as stated in the FOIA regulations, DOJ “ordinarily will presume that where a news media requester has satisfied [the public interest standard], the request is not primarily in the commercial interest of the requester.” § 16.10(k)(2)(iii)(B). As already described above, EPIC is a news media requester and satisfies the public interest standard.

For these reasons, a fee waiver should be granted.

Conclusion

Thank you for your consideration of this request. I anticipate your determination on our request within ten calendar days 5 U.S.C. § 552(a)(6)(E)(ii)(I). For questions regarding this request I can be contacted at 202-483-1140 x111 or FOIA@epic.org, cc: Kyriakides@epic.org.

Respectfully submitted,

/s/ Eleni Kyriakides
Eleni Kyriakides
EPIC Law Fellow

¹¹ *About EPIC*, EPIC.org, <http://epic.org/epic/about.html>.

VIA E-Mail

July 4, 2017

Presidential Advisory Commission on Election Integrity
ElectionIntegrityStaff@ovp.eop.gov

Dear Sir or Madam:

This letter constitutes a request under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552(a)(3), and is submitted on behalf of the Electronic Privacy Information Center (“EPIC”) to the Presidential Commission on Election Integrity (“PACEI” or “Commission”).

This is a request for records in possession of the agency concerning the letters that were sent on or about June 28, 2017 requesting the production of state voter records and other related information.

Background

The Presidential Advisory Commission on Election Integrity was established by executive order on May 11, 2017.¹ On June 28, 2017, the Commission undertook an effort to collect detailed voter histories from all fifty states and the District of Columbia. In letters to state officials, the Commission requested:

the full first and last names of all registrants, middle names or initials if available, addresses, dates of birth, political party (if recorded in your 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.²

The Vice Chair indicated that the Commission expected a response from the states by July 14, 2017.³

Such a request to state election officials had never been made by any federal official before. Election officials across the political spectrum in at least two dozen states have already partially or fully refused to comply with PACEI’s request.⁴

¹ Exec. Order No. 13,799, 82 Fed. Reg. 22, 389 (May 11, 2017).

² Letter from Kris Kobach, Vice Chair, PACEI, to Elaine Marshall, Sec’y of State, North Carolina (June 28, 2017), <https://www.documentcloud.org/documents/3881856-Correspondence-PEIC-Letter-to-North-Carolina.html>.

³ *Id.*

⁴ Philip Bump & Christopher Ingraham, *Trump Says States Are ‘Trying to Hide’ Things from His Voter Fraud Commission. Here’s What They Actually Say*, Wash. Post (July 1, 2017),

On June 28th, the U.S. Department of Justice issued a parallel request. The DOJ wrote to all states covered by the National Voter Registration Act with a similarly unprecedented demand for information regarding compliance with state voter registration list maintenance.⁵ The DOJ gave the states 30 days to comply with the request.

EPIC seeks nine categories of records from the agency concerning the Commission's June 28th, 2017 request to state election officials.

Records Requested

- (1) All communications to state election officials regarding the request;
- (2) All communications between and amongst Commission staff and Commission members regarding the request;
- (3) All communications between the Commission staff and the Department of Justice and all communications between Commission members and the Department of Justice regarding the request;
- (4) All records concerning compliance with the E-Government Act of 2002 and the specific obligation to undertake a Privacy Impact Assessment;
- (5) All records concerning compliance with the Federal Advisory Committee Act and the failure to post a Privacy Impact Assessment;
- (6) All records concerning compliance with the Privacy Act of 1974 and the failure to undertake a Systems of Records Notice;
- (7) All records concerning the decision to use an insecure website and an insecure email address to receive state voter data;
- (8) All legal memorandum concerning the Commission's authority to request personal data from the states; and
- (9) Such other records that assess the privacy and security risks of aggregating nearly two hundred million voter records in a federal database.

https://www.washingtonpost.com/news/wonk/wp/2017/07/01/trump-says-states-are-trying-to-hide-things-from-his-voter-fraud-commission-heres-what-they-actually-say/?utm_term=.bd2ba9587f57.

⁵ See, e.g., Letter from T. Christian Herren, Jr., Chief, Voting Section, U.S. Dep'tment of Justice, to Kim Westbrook Strach, Exec. Dir., North Carolina State Bd. Of Elections (June 28, 2017), <https://www.documentcloud.org/documents/3881855-Correspondence-DOJ-Letter-06282017.html>.

Request for Expedition

EPIC is entitled to expedited processing of this FOIA request. To warrant expedited processing, a FOIA request must concern a “compelling need.” 5 U.S.C. § 552(a)(6)(E)(i). “Compelling need” is demonstrated where the request is (1) “made by a person primarily engaged in disseminating information,” with (2) “urgency to inform the public concerning actual or alleged Federal Government activity.” § 552(a)(6)(E)(v)(II). This request satisfies both requirements.

First, EPIC is an organization “primarily engaged in disseminating information.” § 552(a)(6)(E)(v)(II). As the Court explained in *EPIC v. DOD*, “EPIC satisfies the definition of ‘representative of the news media.’” 241 F. Supp. 2d 5, 15 (D.D.C. 2003).

Second, there is an “urgency to inform the public about an actual or alleged Federal Government activity.” § 552(a)(6)(E)(v)(II). The “actual...Federal Government activity” at issue is PACEI’s request to states for detailed voter history information. The PACEI concedes this activity in letters to the states.⁶

“Urgency” to inform the public about this activity is clear given the extraordinary nature of PACEI’s sweeping request for voter data.⁷ On June 28, 2017, PACEI independently requested that fifty states and D.C. - within approximately *ten business days* – disclose sensitive, personal information that individuals are often required to provide to be eligible to vote. To date, PACEI has not indicated how the information will be used, who will have access to it, or what safeguards will be established. PACEI has also not made any Privacy Impact Assessment for the collection of state voter data.

As noted already, state officials in over two dozen states have partially or fully opposed PACEI’s demand.⁸ Mississippi Secretary of State Delbert Hosemann stated, “They can go jump in the Gulf of Mexico.”⁹ California Secretary of State Alex Padilla added that he would “not provide sensitive voter information to a committee that has already inaccurately passed judgment that millions of Californians voted illegally. California’s participation would only serve to legitimize the false and already debunked claims of massive voter fraud.”¹⁰ Kentucky’s Secretary of State

⁶ See Letter from Kris Kobach to Elaine Marshall, *supra* note 2.

⁷ *Voter Privacy and the PACEI*, Epic.org, <https://epic.org/privacy/voting/pacei/>.

⁸ See Philip Bump & Christopher Ingraham, *supra* note 4.

⁹ Editorial Board, *Happy Fourth of July! Show Us Your Papers*, N.Y. Times (July 3, 2017), <https://mobile.nytimes.com/2017/07/03/opinion/voter-fraud-data-kris-kobach.html>.

¹⁰ Press Release, Secretary of State Alex Padilla Responds to Presidential Election Commission Request for Personal Data of California Voters (June 29, 2017), <http://www.sos.ca.gov/administration/news-releases-and-advisories/2017-news-releases-and-advisories/secretary-state-alex-padilla-responds-presidential-election-commission-request-personal-data-california-voters/>.

Alison Lundergan Grimes concluded, “There's not enough bourbon here in Kentucky to make this request seem sensible.”¹¹

Fifty technical experts and legal scholars and twenty organizations expert in election integrity, voting verification, and voter privacy also recorded opposition to PACEI’s request. In a letter to state officials, they explained: “As custodians of voter data, you have a specific responsibility to safeguard voter record information.”¹²

This request concerns a matter of widespread public concern; the right to vote is protected by the U.S. Constitution. U.S. Const. amends. XV, XIX, XXIV, XXVI. Voter privacy and the secret ballot are unquestionably integral to American democracy.

States have only days left to respond to PACEI’s request. There is an urgent public need for immediate release of information explaining the PACEI’s unprecedented decision to collect, en masse, voters’ personal information from the states. Moreover, the coincidental request by the DOJ for similar information from the states raises substantial concerns that the PACEI request was part of a coordinated undertaking.¹³

In submitting this detailed statement in support of expedited processing, I certify that this explanation is true and correct to the best of my knowledge and belief. § 552(a)(6)(E)(vi).

Request for “News Media” Fee Status and Fee Waiver

EPIC is a “representative of the news media” for fee classification purposes. *EPIC v. Dep’t of Def.*, 241 F. Supp. 2d 5 (D.D.C. 2003). Based on EPIC’s status as a “news media” requester, EPIC is entitled to receive the requested record with only duplication fees assessed. 5 U.S.C. § 552(a)(4)(A)(ii)(II).

Further, any duplication fees should also be waived because disclosure of the requested information “is in the public interest” because (1) “it is likely to contribute significantly to public understanding of the operations or activities of the government,” and (2) disclosure “is not primarily in the commercial interest” of EPIC. § 552(a)(4)(A)(iii).

First, disclosure of the requested PACEI records concerning the June 28th request to states for detailed voter histories “is likely to contribute significantly to public understanding of the operations or activities of the government.” § 552(a)(4)(A)(iii). The requested PACEI records self-evidently concerns “operations or activities of the government.” *Id.* This request concerns a direct

¹¹ Max Greenwood, *Kentucky secretary of state: 'Not enough bourbon in Kentucky' to make me release voter data*, Hill (June 30, 2017), <http://thehill.com/homenews/state-watch/340331-kentucky-secretary-of-state-not-enough-bourbon-in-kentucky-to-make-me>.

¹² Letter from Organizations and Individual Experts to National Association of State Secretaries (July 3, 2017), <https://epic.org/privacy/voting/pacei/Voter-Privacy-letter-to-NASS-07032017.pdf>.

¹³ See Letter from Eleni Kyriakides, EPIC Law Fellow, to Nelson Hermilla, Chief, FOIA/PA Branch, Civil Rights Div. (June 30, 2017), <https://epic.org/privacy/voting/EPIC-17-06-30-DOJ-20170630-Request.pdf>

request from a presidential commission to state officials to obtain state voter information. Disclosure of the PACEI records is also “likely to contribute significantly to public understanding” of the Commission’s activities because, despite the extraordinary nature of PACEI’s demand, the Commission has not explained how it plans to use, protect, or dispose of the sensitive personal data requested. § 552(a)(4)(A)(iii). Any additional information about how and why PACEI is seeking this data would “contribute significantly” to the public’s understanding of PACEI’s activities.

Second, disclosure of the requested information is not “primarily in the commercial interest” of EPIC. § 552(a)(4)(A)(iii). EPIC has no commercial interest in the requested records. EPIC is a registered non-profit organization committed to privacy, open government, and civil liberties.¹⁴

For these reasons, a fee waiver should be granted.

Conclusion

Thank you for your consideration of this request. I anticipate your determination on our request within ten calendar days 5 U.S.C. § 552(a)(6)(E)(ii)(I). For questions regarding this request I can be contacted at 202-483-1140 x111 or FOIA@epic.org, cc: Kyriakides@epic.org.

Respectfully submitted,

/s/ Eleni Kyriakides
Eleni Kyriakides
EPIC Law Fellow

¹⁴ *About EPIC*, EPIC.org, <http://epic.org/epic/about.html>.

VIA MAIL & FOIAonline

June 12, 2017

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

Dear Sir/Madam,

This letter constitutes an urgent request under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552(a)(3), and is submitted on behalf of the Electronic Privacy Information Center (“EPIC”) to the General Services Administration (“GSA”).

EPIC seeks records in possession of the agency concerning the transfer of voter data from the State of Arkansas to the Department of Defense following the June 28, 2017 letter from the Presidential Advisory Commission on Election Integrity (the “Commission”).

Background

On June 28, 2017, the Vice Chair of the Commission attempted to collect detailed voter histories from all fifty states and the District of Columbia. In letters to state officials, the Commission requested:

the full first and last names of all registrants, middle names or initials if available, addresses, dates of birth, political party (if recorded in your 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.¹

The letter provides no indication that the Commission will pay fees for the receipt voter data. The Commission also indicated a website for the transmission of voter data, which has since been determined to be insecure for the receipt of personally identifiable information from the general public.² Further, the letter from the Commission indicated no familiarity with the data that may disclosed by a particular state that received the request or the procedures the Commission would be required to follow to obtain voter data from a particular state.

¹ See, e.g. Letter from Presidential Advisory Commission on Election Integrity to Hon. Elaine Marshall, Secretary of State, North Carolina (June 28, 2017), <https://www.documentcloud.org/documents/3881856-Correspondence-PEIC-Letter-to-North-Carolina.html>.

² Lewis Decl. Ex. 11., EPIC v. Commission, No. 17-1320 (D.D.C. filed July 3, 2017).

Following a proceeding brought by EPIC, *EPIC v. Commission*, No. 17-1320 (D.D.C. filed July 3, 2017) on July 7, 2017 the U.S. Department of Justice told the D.C. District Court that Arkansas transferred voter data, to the Department of Defense’s SAFE Website, following the letter from the Vice Chair.³

The Arkansas Secretary of State’s Office charges \$2.50 per statewide voter registration data file.⁴ A requesting party also completes a “Data Request Form” in order to obtain the file and must mail payment (in check or money order form) to the Arkansas Secretary of State offices.⁵ The Office provides three types of files, with three clearly defined sets of information:

(1) “...Voter Registration (VR) file which is a list of all registered voters within the state. The file contains the Voter ID #, county of residence, voter name, address information (residential and/or mailing), phone number, DOB, precinct information, district information, party (if applicable) and the date last voted.”

(2) “Vote History information for the state. This file lists the Voter ID # and Vote History data for all Federal elections from 1996 – current election cycle” while “older elections are incomplete since some counties did not enter voter results into the previously used VR databases.” And

(3) “...a combination of the Voter Registration and Vote History files (VRVH).”⁶

The files are provided in “.CSV format” and “are available in CD format for pickup at the State Capitol Building or by mail” or “can also be placed on an FTP site.”⁷

EPIC seeks four categories of records from the agency concerning the Arkansas transfer of data to the Commission.

Records Requested

(1) All records indicating payment by the Commission to obtain Arkansas voter records;

(2) The completed “Data Request Forms,” prepared by the Commission to obtain the Arkansas state vote records;

(3) All records indicating the types of data transferred by Arkansas to the Commission; and

³ Transcript of Temporary Restraining Order at 40, *EPIC v. Commission*, No. 17-1320 (D.D.C. filed July 3, 2017).

⁴ *Voter Data Request Form*, Arkansas.gov
<http://www.sos.arkansas.gov/elections/Documents/Data%20Request%20Form.pdf> (last visited July 12, 2017).

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

(4) All records indicating the Commission’s compliance with the Arkansas procedures to obtain state voter records.

Request for Expedition

EPIC is entitled to expedited processing of this FOIA request because this request involves a “compelling need.” 5 U.S.C. § 552(a)(6)(E)(i). Specifically, under GSA FOIA regulations a request warrants expedited processing where the information sought is (1) “urgently needed,” (2) “by an individual primarily engaged in disseminating information,” and (3) “in order to inform the public concerning actual or alleged Federal Government activity.” 41 C.F.R. § 105-60.402-2(c)(2). This request satisfies all three requirements.

First, records concerning the Arkansas voter data transfer to the SAFE website, obtained following the June 28th request, is “urgently needed.” § 105-60.402-2(c)(2). This information “has a particular value that will be lost if not disseminated quickly.” *Id.* Indeed, this request concerns *both* a “breaking news story” and an issue of significant “general public interest.” *Id.* On June 28, 2017, PACEI independently requested that fifty states and D.C. - within approximately *ten business days* – disclose sensitive, personal information individuals are often required to provide to be eligible to vote. Since that date, public interest in the PACEI’s demand for state election officials to transfer personal voter data has dominated the news cycle, driven by prompt dissent of state officials in at least two dozen states across the political spectrum and public outcry.⁸ Following PACEI’s request less than two weeks ago, “[t]en states noted at least a slight increase in citizen calls and emails, and some citizens inquired about the process to unregister to vote, or how to secure their personal information.”⁹

On July 7th, in a hearing before the D.C. District Court, the DOJ first revealed that Arkansas alone had transferred personal data to the Commission.¹⁰ There are approximately 1.7 million registered voters in the state of Arkansas potentially implicated by this transfer.¹¹ The Commission will hold its first meeting on July 19, 2017.¹² Ahead of that meeting, the public must know whether the Commission and Arkansas state officials complied with state procedures in transferring this sensitive personal data.

⁸ Philip Bump & Christopher Ingraham, *Trump Says States Are ‘Trying to Hide’ Things from His Voter Fraud Commission. Here’s What They Actually Say*, Wash. Post (July 1, 2017), https://www.washingtonpost.com/news/wonk/wp/2017/07/01/trump-says-states-are-trying-to-hide-things-from-his-voter-fraud-commission-heres-what-they-actually-say/?utm_term=.bd2ba9587f57.

⁹ Dylan Wells & Saisha Talwar, *Some voters un-registering following Trump administration's data requests*, ABC News (July 11, 2017), <http://abcnews.go.com/Politics/voters-registering-trump-administrations-data-requests/story?id=48578555>.

¹⁰ Transcript of Temporary Restraining Order at 40, *supra* note 3.

¹¹ *Registered Voters [As of 6/1/16]*, Arkansas.gov <http://www.sos.arkansas.gov/elections/Documents/ARRegisteredVoters6-1-16.pdf> (last visited July 12, 2017).

¹² Meeting notice, 82 FR 31063 (July 5, 2017).

Second, EPIC is an organization “primarily engaged in disseminating information,” § 105-60.402-2(c)(2). As the Court explained in *EPIC v. Dep’t of Def.*, “EPIC satisfies the definition of ‘representative of the news media’” entitling it to preferred fee status under FOIA. 241 F. Supp. 2d 5, 15 (D.D.C. 2003).

Third, this request involves “actual... federal government activity.” § 105-60.402-2(c)(2). This FOIA concerns PACEI’s request to states for detailed voter history information, conceded by PACEI in letters to the states,¹³ and the transfer of Arkansas voter data to PACEI via the SAFE website, conceded by the DOJ to the D.C. District Court.¹⁴

In submitting this detailed statement in support of expedited processing, I certify that this explanation is true and correct to the best of my knowledge and belief. § 105-60.402-2(c); § 552(a)(6)(E)(vi).

Request for “News Media” Fee Status and Fee Waiver

EPIC is a “representative of the news media” for fee classification purposes. *EPIC v. Dep’t of Def.*, 241 F. Supp. 2d 5 (D.D.C. 2003). Based on EPIC’s status as a “news media” requester, EPIC is entitled to receive the requested record with only duplication fees assessed. 5 U.S.C. § 552(a)(4)(A)(ii)(II); 41 C.F.R. § 105-60.305-10(d)(2).

Further, any duplication fees should also be waived because disclosure of the requested information “would contribute significantly to public’s understanding of the operations or activities of the Government and would not be primarily in the commercial interest” of EPIC. § 105-60.305-13; § 552(a)(4)(A)(iii). The GSA evaluates four considerations to determine whether this standard is met: (1) “Whether the subject of the requested records concerns ‘the operations or activities of the Government,’” (2) “Whether the disclosure is ‘likely to contribute’ to an understanding of Government operations or activities,” (3) “Whether disclosure of the requested information will contribute to [the] ‘public’s understanding,’” and (4) “Whether the requester has a commercial interest that would be furthered by the requested disclosure; and if so: whether the magnitude of the identified commercial interest of the requester is sufficiently large, in comparison with the public’s interest in disclosure, that disclosure is ‘primarily in the commercial interest of the requester.’” § 105-60.305-13(a)(1-4). EPIC’s request satisfies these four GSA considerations for granting a fee waiver. § 105-60.305-13(a)(1-4).

First, disclosure of the requested GSA records concerning Arkansas transfer of voter data following PACEI’s June 28th request self-evidently concerns “the operations or activities of the Government.” § 105-60.305-13(a)(1). This request involves a direct request from a presidential commission to a state officials to obtain state voter information, and the transfer of data to a federal website following that request.

Second, “disclosure is ‘likely to contribute’ to an understanding of Government operations or activities.” § 105-60.305-13(a)(2). The requested information about the Arkansas data transfer is

¹³ See Letter from Kris Kobach to Elaine Marshall, *supra* note 1.

¹⁴ Transcript of Temporary Restraining Order at 40, *supra* note 3.

not “already in the public domain.” *Id.* Few details surrounding the transfer have been disclosed to the public, and the existence of the transfer was first made public mere days ago.

Third, “disclosure of the requested information will contribute to [the] ‘public’s understanding” § 105-60.305-13(a)(3). As stated in the GSA FOIA regulations, the “identity and qualifications of the requester should be considered to determine whether the requester is in a position to contribute to public’s understanding through the requested disclosure.” *Id.* As already indicated, EPIC is a news media requester. EPIC regularly disseminates information obtained through the FOIA as a part of its public interest mission through website EPIC.org, a bi-weekly “EPIC Alert,” and other publications.¹⁵

Fourth, EPIC has no “commercial interest that would be furthered by the requested disclosure.” § 105-60.305-13(a)(4). EPIC is a registered non-profit organization committed to privacy, open government, and civil liberties.¹⁶

For these reasons, a fee waiver should be granted.

Conclusion

Thank you for your consideration of this request. I anticipate your decision concerning EPIC’s request for expedited processing within five working days. 41 C.F.R. § 105-60.402-2(d). For questions regarding this request I can be contacted at 202-483-1140 x111 or FOIA@epic.org, cc: Kyriakides@epic.org.

Respectfully submitted,

/s/ Eleni Kyriakides

Eleni Kyriakides
EPIC Law Fellow

¹⁵ *About EPIC*, EPIC.org, <http://epic.org/epic/about.html>.

¹⁶ *Id.*

VIA E-Mail

July 12, 2017
Presidential Advisory Commission on Election Integrity
ElectionIntegrityStaff@ovp.eop.gov

Dear Sir or Madam:

This letter constitutes a request under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552(a)(3), and is submitted on behalf of the Electronic Privacy Information Center (“EPIC”) to the Presidential Commission on Election Integrity (the “Commission”).

EPIC seeks records in possession of the agency concerning the transfer of voter data from the State of Arkansas to the Department of Defense following the June 28, 2017 Commission letter.

Background

On June 28, 2017, the Vice Chair of the Commission attempted to collect detailed voter histories from all fifty states and the District of Columbia. In letters to state officials, the Commission requested:

the full first and last names of all registrants, middle names or initials if available, addresses, dates of birth, political party (if recorded in your 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.¹

The letter provides no indication that the Commission will pay fees for the receipt voter data. The Commission also indicated a website for the transmission of voter data, which has since been determined to be insecure for the receipt of personally identifiable information from the general public.² Further, the letter from the Commission indicated no familiarity with the data that may be disclosed by a particular state that received the request or the procedures the Commission would be required to follow to obtain voter data from a particular state.

Following the proceeding brought by EPIC, *EPIC v. Commission*, No. 17-1320 (D.D.C. filed July 3, 2017) on July 7, 2017 the U.S. Department of Justice told the D.C. District Court that

¹ See, e.g. Letter from Presidential Advisory Commission on Election Integrity to Hon. Elaine Marshall, Secretary of State, North Carolina (June 28, 2017), <https://www.documentcloud.org/documents/3881856-Correspondence-PEIC-Letter-to-North-Carolina.html>.

² Lewis Decl. Ex. 11., *EPIC v. Commission*, No. 17-1320 (D.D.C. filed July 3, 2017).

Arkansas transferred voter data, to the Department of Defense’s SAFE Website, following the letter from the Vice Chair.³

The Arkansas Secretary of State’s Office charges \$2.50 per statewide voter registration data file.⁴ A requesting party also completes a “Data Request Form” in order to obtain the file and must mail payment (in check or money order form) to the Arkansas Secretary of State offices.⁵ The Office provides three types of files, with three clearly defined sets of information:

(1) “...Voter Registration (VR) file which is a list of all registered voters within the state. The file contains the Voter ID #, county of residence, voter name, address information (residential and/or mailing), phone number, DOB, precinct information, district information, party (if applicable) and the date last voted.”

(2) “Vote History information for the state. This file lists the Voter ID # and Vote History data for all Federal elections from 1996 – current election cycle” while “older elections are incomplete since some counties did not enter voter results into the previously used VR databases.” And

(3) “...a combination of the Voter Registration and Vote History files (VRVH).”⁶

The files are provided in “.CSV format” and “are available in CD format for pickup at the State Capitol Building or by mail” or “can also be placed on an FTP site.”⁷

EPIC seeks four categories of records from the agency concerning the Arkansas transfer of data to the Commission.

Records Requested

- (1) All records indicating payment by the Commission to obtain Arkansas voter records;
- (2) The completed “Data Request Forms,” prepared by the Commission to obtain the Arkansas state vote records;
- (3) All records indicating the types of data transferred by Arkansas to the Commission; and
- (4) All records indicating the Commission’s compliance with the Arkansas procedures to obtain state voter records.

³ Transcript of Temporary Restraining Order at 40, EPIC v. Commission, No. 17-1320 (D.D.C. filed July 3, 2017).

⁴ *Arkansas Voter Registration Data*, Arkansas.gov <http://www.sos.arkansas.gov/elections/Documents/Data%20Request%20Form.pdf> (last visited July 12, 2017).

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

Request for Expedition

EPIC is entitled to expedited processing of this FOIA request. To warrant expedited processing, a FOIA request must concern a “compelling need.” 5 U.S.C. § 552(a)(6)(E)(i). “Compelling need” is demonstrated where the request is (1) “made by a person primarily engaged in disseminating information,” with (2) “urgency to inform the public concerning actual or alleged Federal Government activity.” § 552(a)(6)(E)(v)(II). This request satisfies both requirements.

First, EPIC is an organization “primarily engaged in disseminating information.” § 552(a)(6)(E)(v)(II). As the Court explained in *EPIC v. DOD*, “EPIC satisfies the definition of ‘representative of the news media.’” 241 F. Supp. 2d 5, 15 (D.D.C. 2003).

Second, there is an “urgency to inform the public about an actual or alleged Federal Government activity.” § 552(a)(6)(E)(v)(II). The “actual... Federal Government activity” at issue PACEI’s request to states for detailed voter history information, conceded by PACEI in letters to the states,⁸ and the transfer of Arkansas voter data to PACEI via the SAFE website, conceded by the DOJ in D.C. District Court.⁹

“Urgency” to inform the public about the Arkansas voter data transfer to the SAFE website, following the Commission’s June 28th request. On June 28, 2017, PACEI independently requested that fifty states and D.C. - within approximately *ten business days* – disclose sensitive, personal information individuals are often required to provide to be eligible to vote. Since that date, public interest in the PACEI’s demand for state election officials to transfer personal voter data has dominated the news cycle, driven by prompt dissent of state officials in at least two dozen states across the political spectrum and public outcry.¹⁰ Following PACEI’s request less than two weeks ago, “[t]en states noted at least a slight increase in citizen calls and emails, and some citizens inquired about the process to un-register to vote, or how to secure their personal information.”¹¹

On July 7th, in a hearing before the D.C. District Court, the DOJ first revealed that Arkansas alone had transferred personal data to the Commission.¹² There are approximately 1.7

⁸ See Letter from Kris Kobach to Elaine Marshall, *supra* note 1.

⁹ Transcript of Temporary Restraining Order at 40, *supra* note 3.

¹⁰ Philip Bump & Christopher Ingraham, *Trump Says States Are ‘Trying to Hide’ Things from His Voter Fraud Commission. Here’s What They Actually Say*, Wash. Post (July 1, 2017), https://www.washingtonpost.com/news/wonk/wp/2017/07/01/trump-says-states-are-trying-to-hide-things-from-his-voter-fraud-commission-heres-what-they-actually-say/?utm_term=.bd2ba9587f57.

¹¹ Dylan Wells & Saisha Talwar, *Some voters un-registering following Trump administration's data requests*, ABC News (July 11, 2017), <http://abcnews.go.com/Politics/voters-registering-trump-administrations-data-requests/story?id=48578555>.

¹² Transcript of Temporary Restraining Order at 40, *supra* note 3.

million registered voters in the state of Arkansas potentially implicated by this transfer.¹³ The Commission will hold its first meeting on July 19, 2017.¹⁴ Ahead of that meeting, the public must know whether the Commission and Arkansas state officials complied with state procedures in transferring this sensitive personal data.

In submitting this detailed statement in support of expedited processing, I certify that this explanation is true and correct to the best of my knowledge and belief. § 552(a)(6)(E)(vi).

Request for “News Media” Fee Status and Fee Waiver

EPIC is a “representative of the news media” for fee classification purposes. *EPIC v. Dep’t of Def.*, 241 F. Supp. 2d 5 (D.D.C. 2003). Based on EPIC’s status as a “news media” requester, EPIC is entitled to receive the requested record with only duplication fees assessed. 5 U.S.C. § 552(a)(4)(A)(ii)(II).

Further, any duplication fees should also be waived because disclosure of the requested information “is in the public interest” because (1) “it is likely to contribute significantly to public understanding of the operations or activities of the government,” and (2) disclosure “is not primarily in the commercial interest” of EPIC. § 552(a)(4)(A)(iii).

First, disclosure of the requested PACEI records concerning the Arkansas voter data transfer “is likely to contribute significantly to public understanding of the operations or activities of the government.” § 552(a)(4)(A)(iii). The requested PACEI records self-evidently concerns “operations or activities of the government.” *Id.* This request involves a direct request from a presidential commission to a state officials to obtain state voter information, and the transfer of data to a federal website following that request. Disclosure of the PACEI records is also “likely to contribute significantly to public understanding” of the Commission’s activities because, the requested information about the Arkansas data transfer is not “already in the public domain.” *Id.* Few details surrounding the transfer have been disclosed to the public. Indeed, the existence of the transfer was first made public mere days ago. Any additional information about the circumstances of the data transfer would there “contribute significantly” to the public’s understanding of PACEI’s activities. *Id.*

Second, disclosure of the requested information is not “primarily in the commercial interest” of EPIC. § 552(a)(4)(A)(iii). EPIC has no commercial interest in the requested records. EPIC is a registered non-profit organization committed to privacy, open government, and civil liberties.¹⁵

For these reasons, a fee waiver should be granted.

¹³ *Registered Voters [As of 6/1/16]*, Arkansas.gov

<http://www.sos.arkansas.gov/elections/Documents/ARRegisteredVoters6-1-16.pdf> (last visited July 12, 2017).

¹⁴ Meeting notice, 82 FR 31063 (July 5, 2017).

¹⁵ *About EPIC*, EPIC.org, <http://epic.org/epic/about.html>.

Conclusion

Thank you for your consideration of this request. I anticipate your decision concerning EPIC's request for expedited processing within ten calendar days. 5 U.S.C. § 552(a)(6)(E)(ii)(I). For questions regarding this request I can be contacted at 202-483-1140 x111 or FOIA@epic.org, cc: Kyriakides@epic.org.

Respectfully submitted,

/s/ Eleni Kyriakides

Eleni Kyriakides
EPIC Law Fellow

VIA MAIL

July 13, 2017

The Honorable Mark Martin
Secretary of State
ATTN: FOIA Officer
256 State Capitol
500 Woodlane Street
Little Rock, AR 72201

Dear Sir or Madam:

This letter constitutes a request under the Arkansas Freedom of Information Act Ark. Code Ann. § 25-19-105(a)(2)(A) (1967) to receive copies of records, and is submitted on behalf of the Electronic Privacy Information Center (“EPIC”) to the Office of Arkansas Secretary of State Mark Martin.

EPIC seeks records in possession of the Office concerning the transfer of voter data from the State of Arkansas to the Department of Defense following the June 28, 2017 Commission letter.

EPIC does not assert a claim to Arkansas records as a citizen of the state. § 25-19-105(a)(1)(A). Rather, EPIC urges the Secretary of State to publicly release the requested records in light of the profound public interest favoring release. “The generation that made the nation thought secrecy in government one of the instruments of Old World tyranny and committed itself to the principle that a democracy cannot function unless the people are permitted to know what their government is up to.” *EPA v. Mink*, 410 U.S. 73, 105 (1973) (Douglas, W. dissenting) (quoting from *The New York Review of Books*, Oct. 5, 1972, p. 7). Transparency secures “informed citizenry, vital to the functioning of a democratic society, needed to check against corruption and to hold the governors accountable to the governed.” *NLRB v. Robbins Tire & Rubber Co.*, 437 U.S. 214, 242 (1978). Here, EPIC seeks records concerning the Arkansas transfer of state voter data to the federal government in the pursuit of this overriding public interest.

Background

On June 28, 2017, the Vice Chair of the Commission attempted to collect detailed voter histories from all fifty states and the District of Columbia. In letters to state officials, the Commission requested:

the full first and last names of all registrants, middle names or initials if available, addresses, dates of birth, political party (if recorded in your 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.¹

The letter provides no indication that the Commission will pay fees for the receipt voter data. The Commission also indicated a website for the transmission of voter data, which has since been determined to be insecure for the receipt of personally identifiable information from the general public.² Further, the letter from the Commission indicated no familiarity with the data that may be disclosed by a particular state that received the request or the procedures the Commission would be required to follow to obtain voter data from a particular state.

Following the proceeding brought by EPIC, *EPIC v. Commission*, No. 17-1320 (D.D.C. filed July 3, 2017) on July 7, 2017 the U.S. Department of Justice told the D.C. District Court that Arkansas transferred voter data, to the Department of Defense's SAFE Website, following the letter from the Vice Chair.³

The Arkansas Secretary of State's Office charges \$2.50 per statewide voter registration data file.⁴ A requesting party also completes a "Data Request Form" in order to obtain the file and must mail payment (in check or money order form) to the Arkansas Secretary of State offices.⁵ The Office provides three types of files, with three clearly defined sets of information:

(1) "...Voter Registration (VR) file which is a list of all registered voters within the state. The file contains the Voter ID #, county of residence, voter name, address information (residential and/or mailing), phone number, DOB, precinct information, district information, party (if applicable) and the date last voted."

(2) "Vote History information for the state. This file lists the Voter ID # and Vote History data for all Federal elections from 1996 – current election cycle" while "older elections are incomplete since some counties did not enter voter results into the previously used VR databases." And

(3) "...a combination of the Voter Registration and Vote History files (VRVH)."⁶

¹ See, e.g. Letter from Presidential Advisory Commission on Election Integrity to Hon. Elaine Marshall, Secretary of State, North Carolina (June 28, 2017), <https://www.documentcloud.org/documents/3881856-Correspondence-PEIC-Letter-to-North-Carolina.html>.

² Lewis Decl. Ex. 11., *EPIC v. Commission*, No. 17-1320 (D.D.C. filed July 3, 2017).

³ Transcript of Temporary Restraining Order at 40, *EPIC v. Commission*, No. 17-1320 (D.D.C. filed July 3, 2017).

⁴ *Arkansas Voter Registration Data*, Arkansas.gov

<http://www.sos.arkansas.gov/elections/Documents/Data%20Request%20Form.pdf> (last visited July 12, 2017).

⁵ *Id.*

⁶ *Id.*

The files are provided in “.CSV format” and “are available in CD format for pickup at the State Capitol Building or by mail” or “can also be placed on an FTP site.”⁷

EPIC seeks four categories of records from the agency concerning the Arkansas transfer of data to the Commission.

Records Requested

- (1) All records indicating payment by the Commission to obtain Arkansas voter records;
- (2) The completed “Data Request Forms,” prepared by the Commission to obtain the Arkansas state vote records;
- (3) All records indicating the types of data transferred by Arkansas to the Commission; and
- (4) All records indicating the Commission’s compliance with the Arkansas procedures to obtain state voter records.

Request for Fee Waiver

EPIC requests that copies of the records “be furnished without charge or at a reduced charge” because (1) the records “have been requested primarily for noncommercial purposes,” and (2) “waiver or reduction of the fee is in the public interest.” § 25-19-105(d)(3)(A)(iv).

First, disclosure of the records “have been requested primarily for noncommercial purposes. § 25-19-105(d)(3)(A)(iv). EPIC has no commercial interest in the requested records. EPIC is a registered non-profit organization committed to privacy, open government, and civil liberties.⁸

Second, “waiver or reduction of the fee is in the public interest.” § 25-19-105(d)(3)(A)(iv). The requested records concern a matter of profound public interest: the transfer of Arkansas voters’ data a Presidential commission. Nonetheless, there are few public details about the circumstances surrounding the transfer, and, indeed, the mere fact of the transfer was first made public only days ago.⁹ On July 7th, in a hearing before the D.C. District Court, the DOJ first revealed that Arkansas alone had transferred personal data to the Commission.¹⁰ There are approximately 1.7 million registered voters in the state of Arkansas potentially implicated by this transfer.¹¹ The Commission will hold its first meeting on July 19, 2017.¹² Ahead of that meeting,

⁷ *Id.*

⁸ *About EPIC*, EPIC.org, <http://epic.org/epic/about.html>.

⁹ Transcript of Temporary Restraining Order at 40, EPIC v. Commission, No. 17-1320 (D.D.C. filed July 3, 2017).

¹⁰ *Id.*

¹¹ *Registered Voters [As of 6/1/16]*, Arkansas.gov

<http://www.sos.arkansas.gov/elections/Documents/ARRegisteredVoters6-1-16.pdf> (last visited July 12, 2017).

the public must know whether the Commission and Arkansas state officials complied with state procedures in transferring this sensitive personal data.

For these reasons, a full fee waiver should be granted.

Conclusion

Thank you for your consideration of this request. For questions regarding this request I can be contacted at 202-483-1140 x111 or FOIA@epic.org, cc: Kyriakides@epic.org. EPIC anticipates your response within a maximum of three working days. § 25-19-105(e).

EPIC requests receipt of responsive records via e-mail, and, if not “readily convertible” to electronic format, in physical copies via mail to the 1718 Connecticut Ave. NW, Suite 200, Washington, DC 20009. § 25-19-105(d)(2)(B).

Respectfully submitted,

/s/ Eleni Kyriakides

Eleni Kyriakides

EPIC Law Fellow

¹² Meeting notice, 82 FR 31063 (July 5, 2017).