



October 8, 2013

National Park Service
ATTN: NPS FOIA Officer



FREEDOM OF INFORMATION ACT (FOIA) REQUEST

To Whom It May Concern:

On behalf of the American Center for Law and Justice (ACLJ), a Section 501(c)(3) non-profit organization, this request for records is made pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, and 43 C.F.R. § 2.1 *et seq.* We request that a copy of the records detailed below be provided to us. We do not wish to inspect the records first.

FIRST REQUEST FOR INFORMATION

We seek any and all records, as that term is defined under FOIA (5 U.S.C. § 552(f)(2)), applicable regulations (43 C.F.R. § 2.70), and applicable case law (*see, e.g., Forsham v. Harris*, 445 U.S. 169, 183 (1980)), existing in any format whatsoever, including, but not limited to, written correspondence, email correspondence, records of telephone correspondence, records pertaining to in-person meetings, calendar or scheduling entries, videotapes, photographs, computer print-outs, telephone messages, voice mail messages, text messages, *etc.*, and consisting of correspondence in any form whatsoever and without limitation, or detailing meetings or discussions in any form whatsoever and without limitation, *between*:

- (1) National Park Service officials, employees, representatives, or agents internally within the National Park Service;
- (2) National Park Service officials, employees, representatives, or agents, *and* Department of the Interior officials, employees, representatives, or agents;
- (3) National Park Service officials, employees, representatives, or agents, *and* White House officials, employees, representatives, or agents;
- (4) National Park Service officials, employees, representatives, or agents, *and* Democratic members of the United States Senate or United States House of Representatives or employees, representatives or agents of such Democratic members of the Senate or House of Representatives; and

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- (5) National Park Service officials, employees, representatives, or agents, *and* Democratic Party officials, employees, representatives, or agents;

regarding, and/or in any way relating to the closure of or limited access of the public, attributed to the current Government shutdown which began on or about October 1, 2013, to the National Mall, the World War II Memorial, the Vietnam War Memorial, the Marine Corps Memorial, and any other memorials or monuments usually fully accessible 24 hours per day as well as the American Military Cemetery adjacent to the English Channel on the Normandy coast of France.

SECOND REQUEST FOR INFORMATION

We further seek any and all records, as that term is defined under FOIA (5 U.S.C. § 552(f)(2)), applicable regulations (43 C.F.R. § 2.70), and applicable case law (*see, e.g., Forsham v. Harris*, 445 U.S. 169, 183 (1980)), existing in any format whatsoever, including, but not limited to, written correspondence, email correspondence, records of telephone correspondence, records pertaining to in-person meetings, calendar or scheduling entries, videotapes, photographs, computer print-outs, telephone messages, voice mail messages, text messages, *etc.*, concerning any and all costs associated with the barricading of memorials usually fully accessible to the public 24 hours per day, including, but not limited to, the following:

- (1) Costs associated with purchasing and/or renting barricades;
- (2) Costs associated with transporting the barricades to the respective memorials;
- (3) Costs associated with erecting the barricades around the respective memorials;
- (4) Costs associated with guarding the barricades to ensure they are not breached by members of the public; and
- (5) Any other costs associated with closing and securing such memorials.

The foregoing two requests seek any and all records in the possession of the Department of Interior and/or the National Park Service meeting the above criteria for the period September 1, 2013, through midnight of the date this FOIA request is signed for by NPS personnel.

FEES

Notice is hereby given that as a non-profit corporation requesting these records for its own use, the ACLJ qualifies as an “other requester[]” within the meaning of 5 U.S.C. § 552(a)(4)(A)(ii)(III) and 43 C.F.R. § 2.39(a). Pursuant to 43 C.F.R. § 2.45(b), the ACLJ states that it will use any records released under this FOIA Request to evaluate the operations and activities of the U.S. government.

Pursuant to 43 C.F.R. § 2.45(b), fees shall be waived or reduced when it is determined that 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 the requester. The records that are the subject of this request concern constitutional issues involving free speech, as well as potential violations

of federal statutory law governing the closure of public forums to protected speech. Obviously, such issues are matters of paramount public interest and concern.

As a prominent public interest law firm, the ACLJ is well qualified to analyze and disseminate this information to a large audience of interested persons. Furthermore, because the ACLJ is a non-profit 501(c)(3) organization dedicated to the defense of constitutional liberties secured by law and will not resell the information disclosed in any form, there is no commercial interest at issue. As such, we request that the fee waiver permitted by 43 C.F.R. § 2.45(b) be applied to this request. However, if you deny this request for a fee waiver or reduction, we request you contact us with the reasonable amounts, as well as the manner of calculating those fees as required by the Freedom of Information Act, prior to any expenditure.

Please search for responsive records regardless of format, medium, or physical characteristics. We request that responsive records be produced in native format, or the format most felicitous to an expedited production. Upon receipt of this request, please take all reasonable steps to preserve relevant public records while the request is pending.

If it is your position that any portion of the requested records is exempt from disclosure, we request that you provide a *Vaughn* index of those documents. See *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973). As you are aware, a *Vaughn* index must describe each document claimed as exempt with sufficient specificity “to permit a reasoned judgment as to whether the material is actually exempt under FOIA.” *Founding Church of Scientology v. Bell*, 603 F.2d 945, 949 (D.C. Cir. 1979). Moreover, the *Vaughn* index must “describe each document or portion thereof withheld, and for each withholding it must discuss the consequences of disclosing the sought-after information.” *King v. U.S. Dep’t of Justice*, 830 F.2d 210, 223–24 (D.C. Cir. 1987).

In the event that some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable, non-exempt portions of the requested records. See 5 U.S.C. § 552(b). Pursuant to regulation, please clearly indicate the amount of exempt information redacted on the released portion of the record at the place in the record where such redaction is made. If it is your position that a document contains non-exempt segments and that those non-exempt segments are so dispersed throughout the documents as to make segregation impossible, please state what portion of the document is non-exempt and how the material is dispersed through the document. *Mead Data Cent. v. U.S. Dep’t of the Air Force*, 566 F.2d 242, 261 (D.C. Cir. 1977). Claims of non-segregability must be made with the same detail as required for claims of exemptions in a *Vaughn* index. If a request is denied in whole, please state specifically that it is not reasonable to segregate portions of the record for release.

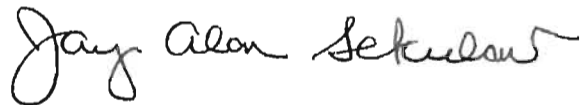
If you have any questions about this request, please do not hesitate to contact our office at 757-226-2489 or contact@aclj.org. Please send the requested documents to:

Legal Department
American Center for Law and Justice

[REDACTED]
[REDACTED]

Because of the time-sensitive nature of this request, we ask that you strictly comply with the 20-day time limit established by FOIA and applicable FEC regulations. *See* 5 U.S.C. § (a)(6)(A); 11 C.F.R. § 4.7(c). Please be advised that once this 20-day period has expired, you are deemed to have constructively denied this request, and the ACLJ will consider the internal appeals process to be constructively exhausted. *See, e.g., Citizens for Responsibility & Ethics in Wash. v. Fed. Election Comm'n*, 711 F.3d 180 (D.C. Cir. 2013). We also respectfully request that documents be made available as soon as they are located and reviewed via a rolling production. The ACLJ will undertake to pay any and all reasonable increased costs incurred as part of a rolling production, as agreed, if our request for a waiver of fees is denied.

Sincerely,
**AMERICAN CENTER FOR
LAW AND JUSTICE**

A handwritten signature in black ink that reads "Jay Alan Sekulow". The signature is written in a cursive, flowing style.

Jay Alan Sekulow