



November 21, 2014

SENT VIA CERTIFIED U.S. MAIL

Jeb Spaulding, Secretary of Administration
Agency of Administration
109 State Street
Montpelier, VT 05609

Re: Freedom of Information Act Request

Dear Mr. Spaulding:

On behalf of the American Center for Law & Justice (ACLJ), a Section 501(c)(3) non-profit organization dedicated to the defense of constitutional liberties secured by law, this request for records is made pursuant to the Vermont Public Records Law, VT. STAT. ANN. tit. 1 § 315 *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.

RECORDS REQUESTED

We seek any and all records, as that term is defined under VT. STAT. ANN. tit. 1 § 317(b), and applicable case law (*see, e.g., Caledonian-Record Publ'g Co. v. Walton*, 154 Vt. 15, 573 A.2d 296), 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.*, whether created or obtained by your agency, that are in the possession, custody, or control of your agency for the time period of January 1, 2008 to November 24, 2014, inclusive, *between and among*:

- Jonathan Gruber and/or his employees, representatives, or agents wherever located; *and*
- Vermont's Agency of Administration officials, employees, representatives, or agents wherever located;

regarding, and/or in any way relating to:

- Vermont's state-run healthcare system

Because of the time-sensitive nature of this request, we ask that you strictly comply with the three-day (3) time limit established by VT. STAT. ANN. tit. 1 § 318(2) and respond to this request

1000 Regent University Drive, RH-422
Virginia Beach, Virginia 23464
(757) 226-2489
(757) 226-2836 (Facsimile)
www.aclj.org

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within that time period. We also respectfully request that records be made available as soon as they are located and reviewed via a rolling production.

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 us with a *Vaughn* index of those documents. See *Rutland Herald v. Vt. State Police*, 2012 VT 24, ¶ 10 n.2, 191 Vt. 357, 49 A.3d 91. As you are aware, a *Vaughn* index “an itemized listing of the non-disclosed records, describing each record and portion withheld, and providing a detailed justification for the agency’s withholding, specifying the FOIA exemption that it has applied.” *Nat’l Day Laborer Org. Network v. U.S. Immigration & Customs Enforcement Agency*, 811 F. Supp. 2d 713, 733 (S.D.N.Y. 2011). Moreover, the *Vaughn* index must “adequately describ[e] each withheld document and explaining the reason for the withholding.” *Amnesty Int’l USA v. CIA*, 728 F. Supp. 2d 479, 496 (S.D.N.Y. 2010).

In the event that portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable, non-exempt portions of the requested records. 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. See generally *Assadi v. United States Citizenship & Immigration Servs.*, 2014 U.S. Dist. LEXIS 137074, at *16–17 (S.D.N.Y. Sept. 26, 2014). 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.

FEES

The ACLJ requests a waiver of all fees as the 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 ACLJ is well qualified to analyze and disseminate this information to a large segment of the public. Furthermore, because the ACLJ is a non-profit, section 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. 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, **prior to** any expenditure.

Thank you for your prompt consideration of this FOIA request. 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:

American Center for Law & Justice
ATTN: Olivia F. Summers, Esq.
1000 Regent University Drive, RH-422
Virginia Beach, VA 23464

Sincerely,

AMERICAN CENTER FOR LAW & JUSTICE

Jay Alan Sekulow
Chief Counsel