Re: Freedom of Information Act Request

Dear sir or madam:

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, we hereby request that your office produce, within 20 business days, the following records:

1. Any FOIA request submitted to, forwarded to, or otherwise currently in your agency’s possession seeking information or records relating to Abigail Spanberger.

(For example, based on media reports, we understand that the organization American Rising submitted such a request on or about July 9. See Grace Wyler and Jason Leopold, “In An Unprecedented Move, The US Postal Service Released A Former CIA Officer’s Security Application To A Republican Group,” BuzzFeedNews.com (Aug. 29, 2018), https://bit.ly/2wDPWTv [hereinafter “BuzzFeed Article”].)

2. Any documents provided to the requestor in response to the FOIA request(s) identified in paragraph 1, including but limited to any correspondence, cover letters, and responsive documents.

3. Any documents describing or generated during the processing of the FOIA request(s) identified in paragraph 1, including but not limited to certifications, correspondence, clearance sheets, custodian records, search terms, and tracking sheets.

4. Any correspondence or other communications—including but not limited to communications among personnel in your office and communication between personnel in your office and any third parties, such as other federal agencies—relating to the FOIA request(s) identified in paragraph 1.

(For example, based on media reports, we understand that the National Personnel Records Center (“NPRC”) sent a letter to America Rising on or about July 12 and transferred Spanberger’s personnel file to the U.S. Postal Service (“USPS”) for review and handling around the same time. We also understand that USPS provided America Rising with Spanberger’s personnel folder, including an SF-86 form she had completed, on or about July 30. See BuzzFeed Article.)
5. Any correspondence or other communications—including but not limited to communications among personnel in your office and communications between personnel in your office and any third parties, such as other federal agencies—relating to Abigail Spanberger, her personnel record, or her SF-86 form.

FEE WAIVER

FOIA provides that any fees associated with a request are 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(a)(4)(A)(iii).

We are the Editor-in-Chief and Senior Editor for Lawfare, an online publication dedicated to informing public understanding on operations and activities of the government. Lawfare is published by The Lawfare Institute, a 501(c)(3) not-for-profit educational organization, and in cooperation with The Brookings Institution, a 501(c)(3) nonprofit public policy organization. Lawfare does not have commercial interests. This request is submitted in connection with Lawfare’s mission to publish information that is likely to contribute significantly to the public understanding of executive branch activities related to law and national security. The disclosure of Spanberger’s SF-86 form is a major breach of government protocols protecting sensitive personal information and is particularly relevant to national security professionals. It also raises concerns regarding possible political manipulation.

In addition to satisfying the requirements for a waiver of fees associated with the search and processing of records, we are entitled to a waiver of all fees except “reasonable standard charges for document duplication.” 5 U.S.C. § 552(a)(4)(A)(ii)(II). Federal law mandates that fees be limited to document duplication costs for any requester that qualifies as “a representative of the news media.” Id. Lawfare is a “news media organization[]” that “gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience.” Nat’l Sec. Archive v. Dep’t 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 website, https://www.lawfareblog.com/, and to provide information about and analysis of those documents as appropriate.

RESPONSIVE RECORDS

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 that the remainder of the record to be provided, as required by 5 U.S.C. §§ 552(a)(8)(A)(ii) & 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 by phone or email if you require any additional information. We appreciate your cooperation and look forward to hearing from you very soon.

Sincerely,

/s/ Benjamin Wittes

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