



December 21, 2017

VIA ELECTRONIC MAIL

FOIA/PA Request
FOIA and Transparency
Department of the Treasury
Washington, DC 20220
treasfoia@treasury.gov

Re: Freedom of Information Act Request

Dear FOIA Officer:

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, and the implementing regulations for the Department of the Treasury (Treasury), 31 C.F.R. Part 1, American Oversight makes the following request for records.

Treasury Secretary Steve Mnuchin is married to Louise Linton. On numerous occasions since Mr. Mnuchin assumed that position, photographs of Ms. Linton have surfaced that have raised questions about the appropriateness of her activities as the wife of a Cabinet secretary. For example, in August, Ms. Linton posted a photograph of herself getting off a government plane after apparently traveling to view the solar eclipse, an event that ultimately triggered an investigation by the Treasury Inspector General.¹ And in November, Ms. Linton raised eyebrows by posing for a photo with a newly minted sheet of currency wearing a very expensive outfit.²

American Oversight seeks to determine whether Ms. Linton has been involved in any other Treasury activities.

Requested Records

American Oversight requests that Treasury produce the following within twenty business days:

All photographs taken by any photographer acting on behalf of the Department of the Treasury (including as a contractor) in which Louise Linton appears.

¹ See, e.g., Reuters, *Treasury Watchdog Is Reviewing Mnuchin's Eclipse Trip His Wife, Louise Linton, Posted About on Instagram*, BUS. INSIDER (Sept. 1, 2017, 10:27 AM), <http://www.businessinsider.com/r-treasury-watchdog-reviews-mnuchins-eclipse-trip-2017-9>.

² Samuel Chamberlain, *Treasury Boss Mnuchin, Wife Raise Eyebrows with Big Money Photo Op*, FOX NEWS, Nov. 15, 2017, <http://www.foxnews.com/politics/2017/11/15/treasury-boss-mnuchin-wife-raise-eyebrows-with-big-money-photo-op.html>.



Please provide all responsive records from February 13, 2017, to the date the search is conducted.

In addition to the records requested above, American Oversight also requests records describing the processing of this request, including records sufficient to identify locations and custodians searched and any tracking sheets used to track the processing of this request. If Treasury 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.

Under the FOIA Improvement Act of 2016, agencies must adopt a presumption of disclosure, withholding information “only if . . . disclosure would harm an interest protected by an exemption” or “disclosure is prohibited by law.”³ If it is your position that any portion of the requested records is exempt from disclosure, American Oversight requests that you provide an index of those documents as required under *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973), *cert. denied*, 415 U.S. 977 (1974). 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.”⁴ 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.”⁵ Further, “the withholding agency must supply ‘a relatively detailed justification, specifically identifying the reasons why a particular exemption is relevant and correlating those claims with the particular part of a withheld document to which they apply.’”⁶

You should institute a preservation hold on information responsive to this request. American Oversight intends to pursue all legal avenues to enforce its right of access under FOIA, including litigation if necessary. Accordingly, Treasury is on notice that litigation is reasonably foreseeable.

To ensure that this request is properly construed, that searches are conducted in an adequate but efficient manner, and that extraneous costs are not incurred, American Oversight welcomes an opportunity to discuss its request with you before you undertake your search or incur search or duplication costs. By working together at the outset, American Oversight and Treasury can decrease the likelihood of costly and time-consuming litigation in the future.

Where possible, please provide responsive material in electronic format by email or in PDF or TIF format on a USB drive. Please send any responsive material being sent by mail to American Oversight, 1030 15th Street NW, Suite B255, Washington, DC 20005. If it will accelerate release of responsive records to American Oversight, please also provide responsive material on a rolling basis.

³ FOIA Improvement Act of 2016 § 2 (Pub. L. No. 114–185).

⁴ *Founding Church of Scientology v. Bell*, 603 F.2d 945, 949 (D.C. Cir. 1979).

⁵ *King v. U.S. Dep’t of Justice*, 830 F.2d 210, 223–24 (D.C. Cir. 1987) (emphasis in original).

⁶ *Id.* at 224 (citing *Mead Data Central, Inc. v. U.S. Dep’t of the Air Force*, 566 F.2d 242, 251 (D.C. Cir. 1977)).

Fee Waiver Request

In accordance with 5 U.S.C. § 552(a)(4)(A)(iii) and 31 C.F.R. § 1.7(d)(1), American Oversight requests a waiver of fees associated with processing this request for records. The subject of this request concerns the operations of the federal government, and the disclosures will likely contribute to a better understanding of relevant government procedures by the general public in a significant way.⁷ Moreover, the request is primarily and fundamentally for non-commercial purposes.⁸

American Oversight requests a waiver of fees 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.”⁹ The disclosure of the information sought under this request will document and reveal the operations of the federal government. Ms. Linton has maintained a high profile during her husband’s tenure as Secretary. She has traveled with him on government planes to official events and has attended public events and photo ops with her husband. The requested records will help American Oversight and the general public understand whether, how, and to what extent Ms. Linton is involved in official Treasury activities, and whether that involvement raises any legal or ethical questions. Disclosure of the requested information will contribute to public understanding of these issues because, as discussed below, American Oversight has both the ability and the intention to effectively convey the information it receives to the public.

This request is primarily and fundamentally not for commercial purposes.¹⁰ As a 501(c)(3) nonprofit, American Oversight does not have a commercial purpose and the release of the information requested is not in American Oversight’s financial interest. American Oversight’s mission is to promote transparency in government, to educate the public about government activities, and to ensure the accountability of government officials. American Oversight uses the information gathered, and its analysis of it, to educate the public through reports, press releases, or other media. American Oversight also makes materials it gathers available on its public website and promotes their availability on social media platforms, such as Facebook and Twitter.¹¹ American Oversight has demonstrated its commitment to the public disclosure of documents and creation of editorial content. For example, after receiving records regarding an ethics waiver received by a

⁷ 31 C.F.R. § 1.7(d)(1).

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ American Oversight currently has approximately 11,700 page likes on Facebook and 38,200 followers on Twitter. American Oversight, FACEBOOK, <https://www.facebook.com/weareoversight> (last visited Dec. 19, 2017); American Oversight (@weareoversight), TWITTER (last visited Dec. 19, 2017).

senior DOJ attorney,¹² American Oversight promptly posted the records to its website and published an analysis of what the records reflected about DOJ's process for ethics waivers.¹³ As another example, American Oversight has a project called "Audit the Wall," where the organization is gathering and analyzing information and commenting on public releases of information related to the administration's proposed construction of a barrier along the U.S.-Mexico border.¹⁴

Accordingly, American Oversight qualifies for a fee waiver.

Notwithstanding its fee waiver request, pursuant to 31 C.F.R. § 1.5(b)(7), American Oversight hereby states that it is willing to pay fees in an amount not more than \$25.00.

Conclusion

We share a common mission to promote transparency in government. American Oversight looks forward to working with your agency on this request. If you do not understand any part of this request, have any questions, or foresee any problems in fully releasing the requested records, please contact Sara Creighton at foia@americanoversight.org or 202-869-5246. Also, if American Oversight's request for a fee waiver is not granted in full, please contact us immediately upon making such a determination.

Sincerely,



Austin R. Evers
Executive Director
American Oversight

¹² *DOJ Civil Division Response Noel Francisco Compliance*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/document/doj-civil-division-response-noel-francisco-compliance>.

¹³ *Francisco & the Travel Ban: What We Learned from the DOJ Documents*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/francisco-the-travel-ban-what-we-learned-from-the-doj-documents>.

¹⁴ *Audit the Wall*, AMERICAN OVERSIGHT, www.auditthewall.org.