

# **EXHIBIT 1**



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texascivilrightsproject.org

FOIA Officer  
U.S. Customs and Border Protection  
90 K Street, NE  
FOIA Division  
Washington, DC 20229

**Via online SecureRelease portal**

October 03, 2023

**Re: Freedom of Information Act Request Regarding the Death of A.D.R.A. (A-XXX-XXX-XXX, DOB: XX/XX/2014)**

**Expedited Processing & Fee Waiver / Limitation Request**

Dear Freedom of Information Act Officer:

This letter is a request for records pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552 *et seq.*, and its relevant implementing regulations 6 C.F.R. § 5 *et. seq.*, by the Texas Civil Rights Project (“TCRP”).<sup>1</sup>

TCRP is entitled to a fee waiver. *See* 5 U.S.C. § 552(a)(4)(A)(iii). Even absent the grant of such a fee waiver, “fees shall be limited to reasonable standard charge for document duplication,” and *no search charges may be assessed* for these requests, because TCRP qualifies as a “representative of the news media” under 5 U.S.C. § 552(a)(4)(A)(ii)(II)-(III).

TCRP is also entitled to expedited processing of these requests under 5 U.S.C. § 552(a)(6)(E).

Since September 2018, at least seven children have died after becoming ill in CBP custody, due to the conditions in which they were held.<sup>2</sup> Advocacy groups and lawmakers have steadfastly

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<sup>1</sup> TCRP represents the family of A.D.R.A. in this matter. Form G-28 is also attached to this request.

<sup>2</sup> Nicole Acevedo, *Why are Migrant Children Dying in U.S. Custody*, NBC News (May 29, 2019), <https://www.nbcnews.com/news/latino/why-are-migrant-children-dying-u-s-custody-n1010316>; Molly Hennessy-Fiske, *Six Migrant Children Have Died in U.S. Custody. Here's What We Know About Them*, L.A. Times (May 24, 2019); Tina Burnside and Zoe Sottile, *8-year-old migrant girl who died in US Border Patrol custody was treated for flu several days before her death, authorities say*, CNN (May 22, 2023), <https://www.cnn.com/2023/05/21/us/migrant-child-us-border-death/index.html>.



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called for investigations into children’s deaths and an end to detention, but despite these efforts, yet another child has died in the custody of the United States government – A.D.R.A.<sup>3</sup>

On XX/XX/2023, A.D.R.A. (A-XXX-XXX-XXX, DOB: XX/XX/2014) died in United States Department of Homeland Security (“DHS”) Customs and Border Protection (“CBP”) detention in Harlingen, Texas. On or about XX/XX/2023, A.D.R.A. and her family were taken into CBP custody southeast of the Gateway International Port of Entry in Brownsville, Texas. On or about XX/XX/2023, CBP transferred A.D.R.A. and her family to the Donna Processing Facility (“DPF”) in Donna, Texas. Upon apprehension, and continually thereafter, the family reported a medical history for A.D.R.A. that included sickle cell anemia and a heart condition. [Redacted] days later on or about XX/XX/2023, A.D.R.A. was diagnosed with the flu and she and her family were transferred to the Harlingen Border Patrol Station in Harlingen, Texas – a facility designated for cases requiring medical isolation. [Redacted] days later, on XX/XX/2023, A.D.R.A. passed away in her mother’s arms while in that facility.

Requestor requests the following categories of information related to A.D.R.A. (A-XXX-XXX-XXX, Date of Birth: XX/XX/2014), held by CBP and its contractors, as further detailed in Part I:<sup>4</sup>

1. Records related to the detention of and care received by A.D.R.A.;
2. Records relating to CBP’s policies, practices, training materials, communications, and informal understanding regarding the treatment of ill children in CBP custody, specifically those with medical vulnerabilities and compromised immune systems; and
3. Numerical data and statistics about the number of children who have died while in or immediately following CBP custody.

## I. Specific Requested Records<sup>5</sup>

Requestor makes this request for records related to the death of A.D.R.A. (A-XXX-XXX-XXX), who died on XX/XX/2023.

<sup>3</sup> See e.g., Valerie Gonzalez, *Mother of 8-year-old who died in Border Patrol custody says pleas for hospital care were denied*, AP News (June 20, 2023), <https://apnews.com/article/border-patrol-custody-death-harlingen-8da5429f39cb7ac0ff4c9184a42d8ba2>; Chantal Da Silva and Daniella Silva, *The 8-year-old who died in Border Patrol custody had a 104.9-degree temperature and still was not sent to the hospital*, NBC News (June 2, 2023), <https://www.nbcnews.com/news/latino/border-patrol-staff-documents-refuse-ambulance-8-year-old-died-custody-rcna87383>.

<sup>4</sup> See 8 U.S.C. 236.6 (information held by a contracted party “shall be under the control of the Service and shall be subject to public disclosure”)

<sup>5</sup> The term “records” as used in this request includes, but is not limited to: emails, images, video, voicemail messages, minutes or notes of meetings and phone calls, text communications between phones or electronic devices, video, audio records, and social media posts. The term “records” also includes instructions, directives, guidance documents, formal and informal presentations, training documents, bulletins, alerts, reports, contractors or agreements, memoranda of understanding, and legal and policy memoranda.



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Requestors seek:

1. Any and all records and communication held by CBP and/or its contractors related to the decision to transfer and detain A.D.R.A. to US Border Patrol Donna Processing Facility (“DPF”), in Donna, Texas;
2. Any and all records and communications held by CBP and/or its contractors related to the decision to transfer and detain A.D.R.A. to the Harlingen Border Patrol Station at 3902 S Expressway 83, Harlingen, Texas 78552;
3. Any and all records and communications held by CBP and/or its contractors related to the decision to transfer and detain A.D.R.A. at any other Border Patrol station or facility not explicitly named;
4. Any and all records and communications held by CBP and/or its contractors related to the decision to contact, or not contact, emergency medical services for A.D.R.A. between [redacted] and [redacted], 2023;
5. Any and all records and communications held by CBP and/or its contractors related to the decision to transfer A.D.R.A. to Valley Baptist Medical Center at 2101 Pease St., Harlingen, Texas 78550;
6. Any and all emails or messages that name, discuss or in any way refer to A.D.R.A., including emails about her health conditions and deterioration, as well as continued detention – whether held CBP or its contractors;
7. Any video recordings, images, or audio recording held by CBP and/or its contractors of A.D.R.A. on [redacted] through [redacted], including but not limited to the video referred to in *Update: Death in Custody of 8-Year-Old in Harlingen, Texas*,<sup>6</sup> released on May 21, 2023;
8. Any and all records held by CBP and/or its contractors related to any medical diagnosis of A.D.R.A. while in CBP custody, including but not limited to the medical intake forms and assessment completed upon her apprehension on or about [redacted] and [redacted], 2023;
9. Any and all records held by CBP and/or its contractors related to any medical diagnosis of A.D.R.A. while in CBP custody, including but not limited to the medical intake forms and assessment completed upon her arrival to the Donna Processing Facility on or about [redacted], 2023;
10. Any and all records held by CBP and/or its contractors related to any medical diagnosis of A.D.R.A. while in CBP custody, including but not limited to the medical intake forms and assessment completed upon her arrival at the Harlingen Border Patrol Station on or about [redacted], 2023;
11. Any and all records held by CBP and/or its contractors related to any medical diagnosis of A.D.R.A. while in CBP custody, including but not limited to the medical intake forms and assessment completed upon her arrival at any other CBP station or facility;
12. Any and all records held by CBP and/or its contractors related to any medical treatment that A.D.R.A. received while in CBP custody at the Donna Processing Facility – including but not limited to A.D.R.A.’s medical visit to the DPF medical unit on May 14, 2023,

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<sup>6</sup> *Update: Death in Custody of 8-Year-Old in Harlingen, Texas*, U.S. CUSTOMS AND BORDER PROTECTION (May 21, 2023), <https://www.cbp.gov/newsroom/speeches-and-statements/update-death-custody-8-year-old-harlingen-texas>.



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during which she was diagnosed with Influenza A, as indicated in *Update: Death in Custody of 8-Year-Old in Harlingen, Texas*,<sup>7</sup> released on May 21, 2023;

13. Any and all records held by CBP and/or its contractors related to any medical treatment that A.D.R.A. received while in CBP custody at the Harlingen Border Patrol Station – including but not limited to: A.D.R.A.’s medical assessment on May 14, 2023, her three known documented visits to the Harlingen medical unit on May 17, 2023, and her nine visits to the Harlingen medical unit, as indicated in *Update: Death in Custody of 8-Year-Old in Harlingen, Texas*<sup>8</sup> released on May 17, 2023, and *Statement from CBP Acting Commissioner Troy Miller on the Investigation of the in-custody death of a child*,<sup>9</sup> released on June 1, 2023;
14. Any and all records held by CBP and/or its contractors related to any medical treatment that A.D.R.A. received while in CBP custody at any CBP station or facility not explicitly named;
15. Any and all records held by CBP and/or its contractors related to the emergency medical treatment that A.D.R.A. received from South Texas Emergency Care on or about May 17, 2023, as indicated in *Statement from CBP Acting Commissioner Troy Miller on the Investigation of the in-custody death of a child*,<sup>10</sup> released on June 1, 2023;
16. Any and all records held by CBP and/or its contractors related to any vaccinations given to A.D.R.A. while in CBP custody;
17. Any and all records held by CBP and/or its contractors related to accommodations made by CBP or its contractors related to A.D.R.A.’s known previous medical conditions or her flu diagnosis on or about [redacted], 2023;
18. Any and all records, notes, or communications related to any medical consultations or appointments that A.D.R.A. had while in Border Patrol custody – whether held by CBP or contractors;
19. Any and all records held by CBP and/or its contractors identifying medical providers contracted to provide services to detainees at the Donna Processing Facility and at the Harlingen Border Patrol Station, as well as any other CBP facility that may have provided medical services to A.D.R.A.;
20. Any and all records held by CBP and/or its contractors of required medical follow-ups and medical provider notes for A.D.R.A.;
21. Any logs or records held by CBP and/or its contractors of welfare checks conducted on or including A.D.R.A. at the Donna Processing Facility;
22. Any logs or records held by CBP and/or its contractors of welfare checks conducted on or including A.D.R.A. at the Harlingen Border Patrol Station;
23. Any logs or records held by CBP and/or its contractors of welfare checks conducted on or including A.D.R.A. at any other CBP facility not explicitly named, if any;
24. Any internal complaints or reports held by CBP and/or its contractors filed about or relating

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Statement from CBP Acting Commissioner Troy Miller on the Investigation of the in-custody death of a child*, U.S. CUSTOMS AND BORDER PROTECTION (June 1, 2023), <https://www.cbp.gov/newsroom/speeches-and-statements/statement-cbp-acting-commissioner-troy-miller-investigation>.

<sup>10</sup> *Id.*



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to A.D.R.A.;

25. Any records held by CBP and/or its contractors containing guidance, policies, internal rules, or internal memoranda pertaining to medical care for children in CBP custody that were in effect from May 1, 2023 through the date of receipt of this FOIA;
26. Any records held by CBP and/or its contractors evidencing complaints made by the A.D.R.A. or the family of A.D.R.A. concerning medical care or conditions at the Donna Processing Center;
27. Any records held by CBP and/or its contractors evidencing complaints made by the A.D.R.A. or the family of A.D.R.A. concerning medical care or conditions at the Harlingen Border Patrol Station; and
28. Any records held by CBP and/or its contractors evidencing complaints made by the A.D.R.A. or the family of A.D.R.A. concerning medical care or conditions at any CBP facility not explicitly named, if any.

Requesters also request records concerning CBP detention:

29. Any records, including internal memoranda, containing guidance, policies, procedures, or internal rules about how to treat ill children exhibiting signs of illness or injury in CBP custody that were in effect from May 1, 2023 through the date of receipt of this FOIA – whether held by CBP and/or its contractors;
30. Any records, including internal memoranda, containing guidance, policies, procedures, or internal rules about how to respond to the death of children in CBP custody that were in effect from May 1, 2023 through the date of receipt of this FOIA – whether held by CBP and/or its contractors;
31. Any and all records, including internal memoranda, containing guidance, policies, procedures, or internal rules about how to treat medically vulnerable children in CBP custody – specifically children whose immune systems are compromised – in effect from May 1, 2023 through the date of receipt of this FOIA – whether held by CBP and/or its contractors;
32. Complaints, reports, and/or records sufficient to show the number of people diagnosed with influenza from January 2022 - May 2023 while in the following facilities:
  - a. Donna Processing Facility;
  - b. Harlingen Border Patrol Station;
  - c. Any other CBP station or facility where CBP may have detained A.D.R.A.
33. Complaints, reports, and/or records sufficient to show the number of people diagnosed with pneumonia infections from January 2022 - May 2023 while in the following facilities:
  - a. Donna Processing Facility;
  - b. Harlingen Border Patrol Station; and/or
  - c. Any other CBP station or facility where CBP may have detained A.D.R.A.
34. Records related to any investigation conducted by CBP or to which CBP or its contractors complied regarding the death of A.D.R.A. – including but not limited to CBP’s Office of Professional Responsibility investigation;
35. Records sufficient to show the number of children who died in CBP custody from May



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2018 - May 2023 at the Donna Processing Facility; the Harlingen Border Patrol Station; and any other CBP station or facility where CBP may have detained A.D.R.A.

36. Any records, including internal memoranda, containing guidance, policies, procedures, or internal rules setting forth practices or protocols for CBP and/or its contractors at Donna Processing Facility, Harlingen Border Patrol Station, and any other CBP station or facility where CBP may have detained A.D.R.A. that were in effect during May 2023 regarding:
  - a. Sepsis;
  - b. Flu;
  - c. Sickle cell anemia;
  - d. Heart conditions;
  - e. Other serious medical conditions;
  - f. Past surgical history;
  - g. Health monitoring;
  - h. Contagion prevention;
  - i. Taking of vital signs; and/or
  - j. Level of care in quarantine
37. Records discussing or describing the number of medical staff and medical contractors available throughout May 2023 at the Donna Processing Facility, the Harlingen Border Patrol Station, and any other CBP station or facility where CBP may have detained A.D.R.A.;
38. Records detailing the number of individuals detained throughout May 2023 at the Donna Processing Facility, the Harlingen Border Patrol Station, and any other CBP station or facility where CBP may have detained A.D.R.A.;
39. All records created, sent, received, referenced, and/or used in fulfilling and/or responding to this request.

Please conduct a reasonable search<sup>11</sup> of all records regarding agency business.<sup>12</sup>

## **II. The Requestor**

TCRP is a 501(c)(3) legal advocacy organization with offices across Texas. TCRP is dedicated to defending the rights and dignity of all those in Texas in and out of the courtroom, in partnership with our communities, and with meaningful policy changes.

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<sup>11</sup> In conducting a “reasonable search,” you must employ the most up-to-date technologies and tools available. Recent technology may have made CBP’s prior FOIA practices unreasonable. In light of the government requirements to manage information electronically by the end of 2016, it is no longer reasonable to rely exclusively on custodian-driven searches. *See* Presidential Memorandum-Managing Government Records, 76 Fed. Reg. 75, 423 (Nov. 28, 2011); Office of Mgmt. & Budget, Exec. Office of the President, *Memorandum for the Heads of Executive Departments & Independent Agencies*, “Managing Government Records Directive,” M-12-18 (Aug. 24, 2012).

<sup>12</sup> It is not reasonable to exclude searches of files or emails in the personal custody of your officials, such as personal email accounts. Records of official business conducted using unofficial systems or stored outside of official files are subject to the Federal Records Act and FOIA. *See Competitive Enter. Inst. v. Office of Sci. & Tech. Policy*, 827 F.3d 145, 149-50 (D.C. Cir. 2016); *cf. Judicial Watch, Inc. v. Kerry*, 844 F.3d 952, 955-56 (D.C. Cir. 2016).



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TCRP plans to publish opinion and policy pieces about the death of children in CBP custody. Every year, TCRP publishes press releases, opinion pieces, reports, and policy papers about current civil rights issues, turning raw qualitative and quantitative data into a distinct work and distributing that work to legislators and the public through hearings, presentations, mailings, and listservs.<sup>13</sup> TCRP experts are often quoted in national publications.<sup>14</sup> Additionally, TCRP disseminates information through its website, [texascivilrightsproject.org](http://texascivilrightsproject.org) and online magazine [news.txcivilrights.org](http://news.txcivilrights.org).

Accordingly, TCRP is a “representative of the news media” within the meaning of the statute and applicable regulations. *See* 5 U.S.C. § 552(a)(4)(A)(iii) (defining a representative of the news media as an entity that “gathers information of potential interest to a segment of the public” and “uses its editorial skills to turn raw materials into a distinct work, and distributes that work to an audience”). *See also National Sec. Archive v. Dep’t of Def.*, 880 F.2d 1381, 1397 (D.C. Cir. 1989) (same); *Electronic Privacy Information Center v. Dep’t of Def.*, 241 F. Supp. 2d 5 (D.D.C. 2003) (nonprofit organizations that gather information and published it in newsletters and otherwise for general distribution qualified as representative of news media for purpose of limiting fees).<sup>15</sup>

Courts have reaffirmed that nonprofit requestors who are not traditional news media outlets can qualify as representatives of the news media for the purposes of the FOIA, including after the 2007 amendments to FOIA. *See Cause of Action v. FTC*, 799 F.3d 1108, 1124 (D.C. Cir. 2015) (holding that a public interest advocacy organization can qualify based on a record of publications, plans to publish, or methods of distribution through multiple outlets); *ACLU of Washington v. Dep’t of Justice*, No. C09-0642RSL, 2011 WI887731, at \*10 (D. Wash. Mar. 10, 2011) (finding that the ACLU qualifies as a “representative of the news media”).

### **III. Request for Expedited Processing**

TCRP requests Track 1 expedited treatment for this FOIA request, pursuant to 5 U.S.C. § 552(a)(6)(E), because TCRP has a “compelling need” for the requested information, TCRP is “primarily engaged in disseminating information,” and there is an “urgency to inform the public concerning actual or alleged Federal Government activity.” 5 U.S.C. § 552(a)(6)(E)(v)(II).

<sup>13</sup> TCRP publishes multiple reports, opinion pieces, and policy pieces each year. For example, in 2019, TCRP published multiple reports. *See, e.g.,* Meagan Harding, *Torture By Another Name: Solitary Confinement in Texas*, TEXAS CIVIL RIGHTS PROJECT (Oct. 2019); James Slattery, *High School Voter Registration in Texas: Grassroots Activism Pushes Progress*, TEXAS CIVIL RIGHTS PROJECT (July 2019); Laura Peña, *The Real National Emergency: Zero Tolerance & the Continuing Horrors of Family Separation at the Border*, TEXAS CIVIL RIGHTS PROJECT (Feb. 2019).

<sup>14</sup> *See, e.g.,* Manny Fernandez & Mitchell Ferman, *Under Construction in Texas: The First New Section of Border Wall*, N.Y. TIMES (Nov. 08, 2019) (quoting attorney Ricky Garza); Jasmine Aguilera, *‘They’re Screaming for Help’: See Drawing from Children Stuck in Mexico as They Seek U.S. Asylum*, TIME (Oct. 31, 2019) (quoting TCRP attorney Erin Thorn Vela); Lula Garcia-Navarro, *Immigration Lawyer on Family Separation at the Border*, NPR (June 30, 2019) (interviewing former TCRP attorney Efrén Olivares).

<sup>15</sup> *See also* DOJ Guide to the Freedom of Information Act: Fees and Fee Waivers 5 (July 23, 2014), <https://www.justice.gov/sites/default/files/oip/legacy/2014/07/23/fees-feewaivers.pdf>





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Since September 2018, at least seven children have died after becoming ill in CBP custody, due to the conditions in which they were held.<sup>16</sup> Advocacy groups and lawmakers have steadfastly called for investigations into children’s deaths and an end to detention, but despite these efforts, yet another child has died in the custody of the United States government – A.D.R.A.<sup>17</sup>

A.D.R.A.’s death and the death of the other migrant children have been a matter of widespread and exceptional media interest where there exist possible questions about the government’s integrity which affect public confidence. 6 C.F.R. § 5.5(e)(1)(iv). Lawmakers, national media, and doctors have long called for investigations into the children’s deaths at the border facilities to prevent future tragedies.<sup>18</sup> 6 C.F. R. § 5.5(e)(1)(ii).

Expedited processing is also warranted in this case to ensure the due process rights of A.D.R.A.’s estate, as well as her family. A delay in processing this request may result in the loss of “substantial due process rights.” 6 C.F.R. § 5.5(e)(1).

#### IV. Request for Fee Waiver

TCRP requests a waiver of search, review, and duplication fees pursuant to 5 U.S.C. §§ 552(a)(4)(A)(ii)(II) and its implementing regulation 6 C.F.R. § 5.11. As a member of the news media for FOIA purposes, TCRP is entitled to a waiver of search fees. *Cf. National Security Archive v. Department of Defense*, 880 F.2d 1381, 1387 (D.C. Cir. 1989). TCRP obtains information about governmental activity and uses such information to create, publish, and distribute unique newsletters and reports discussing the implications of new policies and aggregate data on behalf of the interest of the public. TCRP’s intention upon receiving the information asked

<sup>16</sup> Nicole Acevedo, *Why are Migrant Children Dying in U.S. Custody*, NBC News (May 29, 2019), <https://www.nbcnews.com/news/latino/why-are-migrant-children-dying-u-s-custody-n1010316>; Molly Hennessy-Fiske, *Six Migrant Children Have Died in U.S. Custody. Here’s What We Know About Them*, L.A. Times (May 24, 2019); Tina Burnside and Zoe Sottile, *8-year-old migrant girl who died in US Border Patrol custody was treated for flu several days before her death, authorities say*, CNN (May 22, 2023), <https://www.cnn.com/2023/05/21/us/migrant-child-us-border-death/index.html>.

<sup>17</sup> See e.g., Valerie Gonzalez, *Mother of 8-year-old who died in Border Patrol custody says pleas for hospital care were denied*, AP News (June 20, 2023), <https://apnews.com/article/border-patrol-custody-death-harlingen-8da5429f39cb7ac0ff4c9184a42d8ba2>; Chantal Da Silva and Daniella Silva, *The 8-year-old who died in Border Patrol custody had a 104.9-degree temperature and still was not sent to the hospital*, NBC News (June 2, 2023), <https://www.nbcnews.com/news/latino/border-patrol-staff-documents-refuse-ambulance-8-year-old-died-custody-rcna87383>.

<sup>18</sup> See, e.g., U.S. House of Representatives’ Committee of Homeland Security, *Assessing the Adequacy of DHS Efforts to Prevent Child Deaths in Custody* (Jan. 14, 2020) (noting that information about deaths in child custody is extremely limited despite information requests by Congress); Graham Kites, *Doctors Call for Investigation after 3 Migrant Children in Custody Die of Flu*, CBS NEWS (Aug. 01, 2019), <https://www.cbsnews.com/news/doctors-call-for-investigation-after-3-migrant-children-in-custody-die-of-flu/>; Cynthia Pompa, *Immigrant Kids Keep Dying in CBP Detention Centers, and DHS Won’t Take Accountability*, ACLU (June 24, 2019), <https://www.aclu.org/blog/immigrants-rights/immigrants-rights-and-detention/immigrant-kids-keep-dying-cbp-detention>. Congressional Hispanic Caucus, *Congressional Hispanic Caucus Condemns Pattern of Migrant Children Deaths in DHS Custody, Calls for Investigation & Oversight* (May 21, 2019), <https://congressionalhispaniccaucus-castro.house.gov/media-center/press-releases/congressional-hispanic-caucus-condemns-pattern-of-migrant-children>.



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for in this request is to do the same with that information, to the extent possible while protecting its clients' confidential information.

TCRP is also entitled to a complete waiver of search, review, and duplication fees pursuant to 5 U.S.C. §§ 552(a)(4)(A)(iii) and its implementing regulations 6 C.F.R. § 5.11. The request concerns an identifiable government operation and activity: the investigations into the death of a child in government custody. The disclosure would meaningfully inform the public about the way that the government responded to the death of a child. As noted above, there is widespread public interest in understanding more about the deaths of children in CBP custody. TCRP has the expertise to discuss the legal ramifications and disseminate information in a way that the general public can understand the government's response to the sudden deaths in government custody at CBP facilities. The disclosure of this information will be a significant contribution to public understanding because so little information is available publicly about the cause and investigation into the children's deaths in CBP custody. TCRP has no commercial interest in the disclosure. For the reasons described above, the information requested is "likely to contribute significantly to public understanding of the operations of the government and is not primarily in the commercial interest of the requester." 5 U.S.C. §§ 552(a)(4)(A)(iii).<sup>19</sup>

In the event that TCRP is denied for a waiver of search and/or duplication fees, please contact us before any such costs are incurred, in order to prioritize search and duplication efforts.

\* \* \*

We request that all documents be produced electronically.<sup>20</sup> In the event that such production would cause delay, we request to be contacted to help facilitate record production within the statutory time limit.

If this request is denied in whole or in part, we ask that the government justify all redactions by reference to specific FOIA exemptions.<sup>21</sup> If it is your position that any responsive record or

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<sup>19</sup> See also DOJ FOIA Update: New Fee Waiver Policy Guidance, Vol. VIII, No. 1 (Jan. 01, 1987), <https://www.justice.gov/oip/blog/foia-update-new-fee-waiver-policy-guidance>.

<sup>20</sup> We request that responsive electronic records be provided electronically in their native file format, if possible, except that aggregated data be provided in searchable Microsoft Excel spreadsheets, if possible. See 5 U.S.C. § 552(a)(3)(B). Alternatively, we request that the records be provided electronically in a text-searchable, static-image format (PDF), in the best image quality in the agency's possession, and that records be provided in separate, Bates-stamped files.

<sup>21</sup> All agencies should adopt a presumption in favor of disclosure in order to renew their commitment to the principles embodied in FOIA . . . The presumption of disclosure should be applied to all decisions involving FOIA. Freedom of Information Act, Pres. Mem. of January 21, 2009, 74 Fed. Reg 4683.



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portion thereof is exempt from disclosure,<sup>22</sup> we request that you please provide an index of those documents. *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973), *cert. denied*, 415 U.S. 977 (1972).<sup>23</sup>

We look forward to your response to our request for expedited processing within 10 business days, as required under 5 U.S.C. § 552(a)(6)(E)(ii)(I). Notwithstanding our request for expedited processing, we alternatively look forward to your reply to this request within 20 business days, as required under 5 U.S.C. § 552(a)(6)(A)(I).

\* \* \*

Thank you for your timely consideration of this request. We request that all documents be produced to the undersigned at:

Karla Marisol Vargas  
Senior Attorney  
P.O. Box 219  
Alamo, TX 78516

In the event that such production would cause delay, we request to be contacted to help facilitate record production within the statutory time limit.

If you have any questions about this request, please immediately contact Karla Marisol Vargas at [KVargas@texascivilrightsproject.org](mailto:KVargas@texascivilrightsproject.org).

I certify that the information provided supporting the request for expedited processing is true and correct to the best of our knowledge and belief. In addition, we have attached a G-28 and DHS privacy waiver from the family to this request.

Sincerely,

/s/ Karla Marisol Vargas

Karla Marisol Vargas

<sup>22</sup> Any reasonably segregable portion of a responsive record must be provided, after redaction of any allegedly exempt material. 5 U.S.C. § 552(b); *Schiller v. Nat'l Labor Relations Bd.*, 969 F.2d 1205, 1209 (D.C. Cir. 1992).

<sup>23</sup> A *Vaughn* index should 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, 959 (D.C. Cir. 1979). The *Vaughn* index needs to "describe each document or portion thereof withheld, and for each withholding it must discuss the consequences of supplying the sought-after information." *King v. U.S. Dep't of Justice*, 830 F.2d 210, 223-24 (D.C. Cir. 1987).



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