



August 9, 2024

Via Web Portal Only

Office of Information Programs and Services (IPS)
A/GIS/IPS/RL
U.S. Department of State, State Annex 2 (SA-2)
515 22nd Street, NW
Washington, DC 20522-8100

RE: FOIA Request for Records from the Bureau of Consular Affairs regarding the role of Vice President Kamala Harris as “border czar.”

To whom it may concern,

This letter is a request (“Request”) in accordance with the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552 *et seq.*, and the corresponding department/agency implementing regulations. The Request is made by the American Center for Law and Justice (“ACLJ”).¹

Background

Pursuant to State Department FOIA regulation 22 C.F.R. § 171.4(b), this Background addresses “the subject, timeframe, names of any individuals involved, a contract number (if applicable), and reasons why the requester believes the Department may have records on the subject of the request.” 22 C.F.R. § 171.4(b).

In March of 2021, President Biden placed Vice-President Harris in charge of the “border crisis.”²

Subsequently, on April 14, 2021, *Axios* reported:

Vice President Harris said Wednesday she plans to visit Mexico and Guatemala "as soon as possible" in a diplomatic effort to address surging migration at the U.S.-Mexico border, *Reuters* reports.

¹ The ACLJ is a not-for-profit 501(c)(3) organization dedicated to the defense of constitutional liberties secured by law. The ACLJ regularly monitors governmental activity and works to inform the public of such affairs. The ACLJ and its global affiliated organizations are committed to ensuring governmental accountability and the ongoing viability of freedom and liberty in the United States and around the world.

² Stef W. Kight, *Biden Puts Harris in Charge of Border Crisis*, *AXIOS* (Mar. 24, 2021), <https://www.axios.com/2021/03/24/biden-harris-border-crisis>.

Why it matters: The number of unaccompanied minors crossing the border has reached crisis levels. Harris, appointed by Biden as border czar, said she would be looking at the "root causes" that drive migration.³

This Request investigates Vice-President Kamala Harris's role as border czar.

Records Requested

For purposes of this Request, the term "record" is "any information" that qualifies under 5 U.S.C. § 552(f). The term "record" also includes, but is not limited to, all relevant information created, stored, received, or delivered in any electronic or digital format, e.g., electronic mail, instant messaging or Facebook Messenger, iMessage, text messages or any other means of communication, and any information generated, sent, received, reviewed, stored or located on a government *or private* account or server, consistent with the holdings of *Competitive Enter. Inst. v. Office of Sci. & Tech. Policy*, 827 F.3d 145 (D.C. Cir. 2016) (rejecting agency argument that emails on private email accounts were not under agency control, and holding, "If a department head can deprive the citizens of their right to know what his department is up to by the simple expedient of maintaining his departmental emails on an account in another domain, that purpose is hardly served.").

For purposes of this request, the term "executive assistant" or "administrative assistant" however described, means that the position exists to increase the effectiveness of others by performing as many office support duties as possible, including serving as the principal clerical and administrative support position in the immediate organizational unit in or for which the persons assisted have responsibility, by carrying out and coordinating all the clerical and day-to-day administrative support activities typically required to accomplish the work of the organization.

When this Request names a person, office, document, it includes any alias or pseudonym or acronym or any other name that the person, office, or document may use or be known by.

For purposes of this Request, and unless otherwise indicated, the timeframe of records requested herein is March 1, 2021, to the date this Request is processed.

Pursuant to FOIA, 5 U.S.C. § 552 *et seq.*, ACLJ hereby requests that the Bureau of Consular Affairs produce the following:

- 1. Any records that contain the words: "Harris" or "Kamala" and "border czar" or "border tsar" or "border zar."**

³ Shawna Chen, *Harris to Visit Mexico and Guatemala to Address "Root Causes" of Border Crossings*, AXIOS (Apr. 14, 2021), <https://www.axios.com/2021/04/14/harris-immigration-visit-mexico-guatemala>.

EXPEDITED PROCESSING REQUEST

The ACLJ seeks expedited processing of its request under 5 U.S.C. § 552(a)(6)(E). As defined by statute, a “compelling need” is one

- (I) that a failure to obtain requested records on an expedited basis under this paragraph could reasonably be expected to pose an imminent threat to the life or physical safety of an individual; or
- (II) with respect to a request made by a person primarily engaged in disseminating information, urgency to inform the public concerning actual or alleged Federal Government activity.

5 U.S.C. § 552(a)(6)(E)(v). The ACLJ makes this request under the second prong above.

Pursuant to 5 U.S.C. § 552(a)(6)(E)(v)(II), the ACLJ is “primarily engaged in disseminating information.” The District Court for the District of Columbia found that a non-profit public interest group, not unlike the ACLJ, qualified as a “representative of the news media” where the group disseminated an electronic newsletter and published books. *Elec. Privacy Info. Ctr. v. Dep’t of Def.*, 241 F. Supp. 2d 5, 10–15 (D.D.C. 2003).

For example, the ACLJ’s website received an average of 482,811 unique visitors per month in 2022, with 14,640,384 page views. Our current email list holds 2,068,000 active names. In 2022, the ACLJ sent more than 516,000,000 emails. The ACLJ’s radio audience consists of more than 1,150,000 estimated daily listeners on nearly 1,000 radio stations nationwide, including SiriusXM satellite radio, and the broadcast livestreams on Facebook, YouTube, Rumble, and ACLJ.org. Additionally, the ACLJ hosts a weekly television program, Sekulow, broadcast on multiple networks including: Cornerstone Television, TBN, KAZQ TV-32, SON Broadcasting, VTN, WTGL TV-45, The Walk TV, and The Dove. See <http://aclj.org/radio-tv/schedule> (listing schedule).

The ACLJ also disseminates news and information to over 1,000,000 addresses on its mailing lists. In 2022, the ACLJ sent 12,600,000 pieces of mail.

Moreover, our Chief Counsel, Jay Sekulow, and our Executive Director, Jordan Sekulow, have regularly appeared on various news and talk show programs to discuss the issues and events important to the ACLJ and its audiences. These include shows on FOX News, MSNBC, CNN, OANN, Newsmax, ABC, CBS, and NBC. In addition to television programs, Jay and Jordan Sekulow have also appeared on national radio broadcasts. Beyond broadcast outlets, Jay and Jordan Sekulow’s comments appear regularly in the nation’s top newspapers, in print and online editions, including but not limited to the Wall Street Journal, New York Times, Washington Times, Washington Post, L.A. Times, and USA Today. Their comments also appear in major national newswire services that include, but are not limited to, Associated Press, Reuters, and Bloomberg.

As one district court recently explained, the required “compelling need” and “urgency to

inform” are determined by three factors:

(1) [W]hether the request concerns a matter of current exigency to the American public; (2) whether the consequences of delaying a response would compromise a significant recognized interest; and (3) whether the request concerns federal government activity.

ACLU v. United States DOJ, 321 F. Supp. 2d 24, 29 (D.D.C. 2004) (citing *Al-Fayed v. CIA*, 254 F.3d 300, 310 (2002)).

The ACLJ’s FOIA request qualifies as compelling because it has an urgency to inform the public about United States government activity in connection with respect to its Vice-President’s actions in regard to the border and what she did, if anything, to address the border crisis and its root causes; and thus cannot hold their government officials accountable.

Further, the ACLJ’s request is based upon an urgency to inform the American public because a delay in review of the information would compromise the integrity of United States government officials and actors with respect to a reported story gaining significant coverage (as evidenced by the voluminous reporting of media organizations). The border is at any time, but particularly now in an election year, an inherently and unquestionably matter of concern to the American public at large.

Without the immediate release of the information requested, the American public will remain in the dark with respect to its Vice-President’s actions in regard to the border and what she did, if anything, to address the border crisis and its root causes; and thus cannot hold their government officials accountable.

Accordingly, the ACLJ respectfully submits a request for expedited processing of its contemporaneously submitted FOIA request.

CERTIFICATION

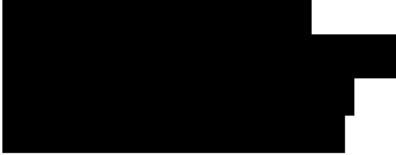
In satisfaction of certification requirements under 5 U.S.C. § 552(a)(6)(E)(vi) and corresponding regulations, the ACLJ incorporates by reference herein all relevant facts and information as stated in the ACLJ’s FOIA request in support thereof and certifies that the information provided and stated herein is true and correct to the best of the undersigned’s knowledge and belief.

CONCLUSION

If this request is denied in whole or in part, the ACLJ requests that, within the time requirements imposed by FOIA, you support all denials by reference to specific FOIA exemptions and provide any judicially required explanatory information, including but not limited to, a *Vaughn* Index.

Thank you for your prompt consideration of this Request. Please furnish all applicable records and direct any responses to:

Jordan Sekulow, Executive Director
John A. Monaghan, Senior Litigation Counsel
American Center for Law and Justice



Respectfully submitted,

A handwritten signature in blue ink that reads "Jordan Sekulow".

Jordan Sekulow
Executive Director

A handwritten signature in blue ink that reads "John A. Monaghan".

John A Monaghan
Senior Litigation Counsel