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November 21, 2018

VIA FOIA Online Submission Form
OSD/JS FOIA Requester Service Center
Office of Freedom of Information
1155 Defense Pentagon
Washington, DC 20301-1155

RE: Freedom of Information Act Request

Dear Freedom of Information Office:

On November 21, 2018, the Military Times reported that White House Chief of Staff John Kelly had signed an order allowing troops stationed at the border to perform “military protective activities that the Secretary of Defense determines are reasonably necessary” to protect border agents, including use of force. See Tara Copp, *White House approves use of force, some law enforcement roles for border troops*, Military Times (Nov. 21, 2018), <https://www.militarytimes.com/news/your-military/2018/11/21/white-house-approves-use-of-force-some-law-enforcement-roles-for-border-troops/>. On behalf of Public Citizen, Inc., and pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, I request a copy of the order/document referenced in the Military Times article.

If it is your position that portions of the requested record are exempt from disclosure, please state the basis for that position. In addition, please provide the nonexempt portions of the record. Please provide the record in electronic form if possible.

Public Citizen requests that all fees in connection with this FOIA request be waived in accordance with 5 U.S.C. § 552(a)(4)(A)(iii) because Public Citizen does not seek the record for a commercial purpose and disclosure “is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government.” Although the existence of the order has been reported, its text has not yet been made public. Release of the text of the order will allow the public to better understand the scope of authority Mr. Kelly has just purported to give the Secretary of Defense, and to better analyze the extent to which the order marks a shift in how the United States military is used.

Public Citizen is a nonprofit research, litigation, and advocacy organization that represents the public interest before Congress, the executive branch, and the courts. It fights for openness and democratic accountability in government; for social and economic justice in globalization and trade policies; for clean, safe, and sustainable energy; for strong health, safety, and environmental

protections; for safe, effective, and affordable medicines and health care; and for the right of consumers to seek redress in the courts.

Public Citizen does not have a commercial interest in the requested record; it intends to share information received from this request with the public free of charge. Public Citizen regularly publishes reports based on information acquired through FOIA. Public Citizen also has a demonstrated capacity to disseminate this information. Public Citizen has several full-time staff dedicated to distributing its publications through its website, which includes a Government Reform webpage, *see* <https://www.citizen.org/government-reform>, its newsletters, *see, e.g.*, <http://www.citizen.org/healthletter>, Twitter, *see* https://twitter.com/Public_Citizen (Public Citizen's Twitter page with over 87,000 followers as of November 21, 2018), Facebook, *see* <https://www.facebook.com/publiccitizen> (Public Citizen's Facebook page with 91,526 followers as of November 21, 2018), email listserv, and press releases. Many of Public Citizen's reports, petitions, or other research products grab headlines in major newspapers, broadcast media, social media, and academic journals. *See, e.g.*, Public Citizen, *Presidency for Sale: 64 Trade Groups, Companies, Candidates, Foreign Governments and Political Groups Spending Money at Trump's Properties* (Jan. 16, 2018), <https://corporatepresidency.org/presidencyforsale/>, discussed in Bernard Condon & Tami Abdollah, *Trump Business Ethics Pledges Left Plenty Room for Profiting*, AP (Jan. 22, 2018), <https://apnews.com/23fa1409935948748fe78de3831fd861/Trump-business-ethics-pledges-left-plenty-room-for-profiting>. Public Citizen maintains four blogs, *see, e.g.*, <http://www.citizenvox.org>, publishes a bi-monthly newspaper, *see, e.g.*, https://www.citizen.org/sites/default/files/pc_news_issues/2018/may-jun/files/assets/basic-html/index.html#1, and issues frequent press releases, *see* <http://www.citizen.org/media/press-releases>. Nearly every day, print and broadcast media around the world mention Public Citizen or quote its experts. *See, e.g.*, <https://www.citizen.org/media/media-hits/2018/11>. Public Citizen also makes its experts available to speak to the media, at conferences, and to testify before Congress. *See* <https://www.citizen.org/media/public-citizens-experts>.

Accordingly, I request that you waive all fees for locating and duplicating the requested record because Public Citizen is entitled to a public interest fee waiver. If, however, a waiver is not granted, please advise me of the amount of any proposed charges before you conduct those activities.

I expect a response within 20 working days as provided by law. If you have any questions regarding this request, please contact me by phone at (202) 588-1000 or by email at arosenbaum@citizen.org.

Thank you very much for your attention to this matter.

Sincerely,

Adina H. Rosenbaum