

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

CENTER TO ADVANCE SECURITY)
IN AMERICA)
1802 Vernon Street NW)
PMB 2095)
Washington, D.C. 20009,)
)
Plaintiff,)
)
v.)
)
U.S. DEPARTMENT OF HOMELAND)
SECURITY)
2707 Martin Luther King Jr. Avenue S.E.)
Washington, D.C. 20528-0525)
)
Defendant.)
_____)

Civil Case No. _____

COMPLAINT

1. Plaintiff Center to Advance Security in America (“CASA”) brings this action against the U.S. Department of Homeland Security (“DHS”) under the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”), seeking declaratory and injunctive relief to compel compliance with the requirements of FOIA.

JURISDICTION AND VENUE

- 2. This Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. §§ 1331.
- 3. Venue is proper in this Court pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1391(e).

PARTIES

4. Plaintiff CASA is an unincorporated association dedicated to improving the safety and security of the American people. CASA educates and informs the American people about

the actions of their government and its officials that impact their safety; peace and security; democracy, civil rights, and civil liberties; and privacy.

5. Defendant DHS is a federal agency within the meaning of FOIA, 5 U.S.C. § 552(f)(1). DHS has possession, custody, and control of records responsive to Plaintiff's FOIA request.

STATEMENT OF FACTS

6. On March 23, 2024, CASA submitted a FOIA request (attached as Exhibit A) to a DHS subdivision, the Cybersecurity and Infrastructure Security Agency ("CISA"). The request sought the following records related to DHS's collaboration with the state of Pennsylvania in a "Pennsylvanian Election Threats Task Force:"

1. All meeting requests, calendar entries, virtual "meeting invitations, call logs and any chats in the relevant virtual platforms (e.g., Microsoft Teams, Zoom, Webex, etc.) pertaining to the development of the "Pennsylvania Election Threats Task Force" or the "Election Threats Task Force".
2. We are seeking records on this topic exchanged between and among the relevant following officials:
 - Jen Easterly
 - Nitin Natarajan
 - Brandon Wales
 - Kathryn Coulter Mitchell
 - Eric Goldstein
 - David Mussington
 - Alaina Clark
 - Erin Buechel Wiczorek
 - Nicole Windham
 - Valerie M. Cofield
 - Cait Conley
 - William J. Ryan
3. We are seeking all emails, text messages, chat sessions, or other forms of written or electronic communication used to discuss the development of the "Pennsylvania Election Threats Task Force" or the "Election Threats Task Force" above containing the following phrases and/or words: "Pennsylvania", "Governor", "Secretary", "election integrity", "misinformation", "disinformation", "mal-information", "voter intimidation", "accurate

information”, “conspiracy”, “mail-in ballots”, “mail ballots”, “ballots”, “polling place”, “logic and accuracy”, “ballot drop boxes”, “drop boxes”, “provisional ballots”, “intelligence”, “censorship”, “surveillance programs”, “false or misleading narratives”, “election fraud”, “violent extremism”, “CISA”, “coordinate”, “Republican”, “Democrat”, “Trump”, “Biden”, “fraud”, “Schmidt”, “Shapiro”, “Christian”, “RNC”, “DNC”, “terrorist”, “terrorism”, “actors”, “poll watchers”, “unsubstantiated”, “widespread”, “fraud”, “free and fair”, “dangerous”, “National Guard”, “clear, strategic communication and information sharing among public agencies and officials to identify and mitigate threats to the election process”.

4. All records exchanged by or between any official listed above with any individual working for one of the following media outlets (with suggested email addresses) on the topic of development of the “Pennsylvania Election Threats Task Force” or the “Election Threats Task Force”:

- Politico (@politico.com)
- Military Times (@militarytimes)
- New York Times (@nytimes.com)
- Washington Post (@washingtonpost.com)
- NBC News (@nbcnews.com)
- ABC News (@abcnews.com)
- LA Times (@latimes.com)
- CBS News (@cbsnews.com)
- Fox News (@foxnews.com)
- Wall Street Journal (@wsj.com)
- USA Today (@usatoday.com)
- Fortune (@fortune.com)
- Forbes (@forbes.com)
- Vanity Fair (@vanityfair.com)
- CNN (@cnn.com)
- Associated Press (@ap.com)
- George Washington University’s Project for Media and National Security
- PBS (@pbs.org)

5. All communications exchanged between any of the above officials identified as an employee, agent, consultant, or representative of one of the following organizations:

- Commonwealth of Pennsylvania (@pa.gov)
- University of Washington’s Center for an Informed Public (@uw.edu)
- Virality Project (@viralityproject.org)
- Election Integrity Partnership (@eipartnership.net)
- Stanford Internet Observatory (@stanford.edu)

6. The timeline for the records requested is from January 20, 2023, to the date the search begins.
7. The release of these documents is in the public interest because it will help the public understand whether DHS and Pennsylvania's collaboration on election security will involve censorship or other threats to the public's civil liberties. CASA's explicit purpose in requesting these documents is to inform the public so they can be engaged with their leaders and ensure their decisions are consistent with America's best interests.
8. DHS's "SecureRelease Portal" reflects that DHS received CASA's request on March 23, 2024, and assigned it request number 2024-NPFO-00301.
9. On April 1, 2024, DHS sent CASA a letter via email acknowledging receipt of the request. The letter stated that DHS anticipated potential delays in processing the request and that it was invoking a 10-day extension for its time to respond, though its goal would be to respond within 20 business days. The letter also stated that DHS was conditionally granting CASA's fee waiver request.
10. After this email and acknowledgement letter, DHS sent no further information about the request.
11. To date, CASA has received neither a further response nor any other communication from DHS regarding the request.
12. As the record described above indicates, over 125 days have elapsed since DHS received CASA's request, yet DHS still has not determined whether it will comply. *See Citizens for Responsibility and Ethics in Washington v. FEC*, 711 F.3d 180 (D.C. Cir. 2013). DHS has not produced responsive documents to CASA, has not communicated to CASA the scope of the documents it intends to produce or withhold—along with the reasons for any such

withholding—and has not informed CASA of its ability to appeal any adverse portion of its determination.

13. Given these facts, DHS has not met its statutory obligations to provide the requested records, and it appears DHS does not intend to meet them absent litigation.
14. Through DHS's failure to make a determination within the time period required by law, CASA has constructively exhausted its administrative remedies and seeks immediate judicial review.

COUNT I

Violation of FOIA, 5 U.S.C. § 552 Wrongful Withholding of Non-Exempt Responsive Records

15. CASA repeats and incorporates by reference each of the foregoing paragraphs as if fully set forth herein.
16. CASA properly submitted a request for records within the possession, custody, and control of DHS.
17. DHS is an agency subject to FOIA, and therefore has an obligation to release any non-exempt records and provide a lawful reason for withholding any materials in response to a proper FOIA request.
18. DHS is wrongfully withholding non-exempt agency records requested by CASA by failing to produce non-exempt records responsive to its request.
19. DHS's failure to provide all non-exempt responsive records violates FOIA.
20. Plaintiff CASA is therefore entitled to declaratory and injunctive relief requiring Defendant to promptly produce all non-exempt records responsive to its FOIA request and provide an index justifying the withholding of any responsive records withheld under claim of exemption.

REQUESTED RELIEF

Center to Advance Security in America respectfully requests this Court:

- (1) Assume jurisdiction in this matter and maintain jurisdiction until Defendant complies with the requirements of FOIA and any and all orders of this Court.
- (2) Order Defendant to produce, within ten days of the Court's order, or by other such date as the Court deems appropriate, any and all non-exempt records responsive to CASA's FOIA request and an index justifying the withholding of all or part of any responsive records withheld under claim of exemption.
- (3) Award CASA the costs of this proceeding, including reasonable attorney's fees and other litigation costs reasonably incurred in this action, pursuant to 5 U.S.C. § 552(a)(4)(E).
- (4) Grant CASA other such relief as the Court deems just and proper.

Dated: August 15, 2024

Respectfully submitted,

CENTER TO ADVANCE SECURITY
IN AMERICA
By Counsel:

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