

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

STATEMENT OF FACTS

6. On August 19, 2024, CASA submitted two FOIA requests to VA seeking records regarding the diversion of resources to the Immigration and Customs Enforcement Health Corps.

7. One request (herein referred to as Request "A" and attached hereto as Exhibit "A"), sought records from January 1, 2023, through the date the request was processed, for:

- a. Communications to, from, or received by Denis R. McDonough, Tanya Bradsher, Shana Love-Holman, Margaret "Meg" Kabat, and Krystal M. Toles containing the following phrases and/or words: "Immigration and Customs Enforcement Health Services Corps", "immigrant", "migrant", "ICE", "undocumented", "dreamer", "noncitizen", "detainee", and "Health Services Corps".
- b. Records possessed or created by Denis R. McDonough, Tanya Bradsher, Shana Love-Holman, Margaret "Meg" Kabat, and Krystal M. Toles including records of meeting requests, virtual meeting invitations, call logs and any chats in the relevant virtual platforms (e.g., Microsoft Teams, Zoom, Webex, etc.), related to moving

processors from the Department of Veterans Affairs to support the Immigration and Customs Enforcement Health Services Corps.

- c. Calendar entries from Denis R. McDonough, Tanya Bradsher, Shana Love-Holman, Margaret “Meg” Kabat, and Krystal M. Toles related to moving processors from the Department of Veterans Affairs to support the Immigration and Customs Enforcement Health Services Corps.
- d. Communications related to moving processors from the Department of Veterans Affairs to support the Immigration and Customs Enforcement Health Services Corps exchanged between one or more of the following people: Denis R. McDonough, Tanya Bradsher, Shana Love-Holman, Margaret “Meg” Kabat, and Krystal M. Toles and anyone identified as an employee, agent, consultant, or representative of one of the following organizations:
 - i. Department of Homeland Security (@dhs.gov)
 - ii. Immigration and Customs Enforcement (@ice.gov)

8. The second request (herein referred to as Request “B” and attached hereto as Exhibit “B”), sought records from January 1, 2023, through the date the request was processed, for:

- a. Communications to, from, or received by Shareef Elnahal, Alan J. Hirshberg, Dr. Steven L. Lieberman, Alfred A. Montoya, RimaAnn O. Nelson, M. Christopher Saslo, Erica M. Scavella, Ryung Suh, and Mark T. Upton containing the following phrases and/or words: “Immigration and Customs Enforcement Health Services Corps”, “immigrant”, “migrant”, “ICE”, “undocumented”, “dreamer”, “noncitizen”, “detainee”, and “Health Services Corps”.

- b. Records possessed or created by Shareef Elnahal, Alan J. Hirshberg, Dr. Steven L. Lieberman, Alfred A. Montoya, RimaAnn O. Nelson, M. Christopher Saslo, Erica M. Scavella, Ryung Suh, and Mark T. Upton including records of meeting requests, virtual meeting invitations, call logs and any chats in the relevant virtual platforms (e.g., Microsoft Teams, Zoom, Webex, etc.), related to moving processors from the Department of Veterans Affairs to support the Immigration and Customs Enforcement Health Services Corps.
- c. Calendar entries from Shareef Elnahal, Alan J. Hirshberg, Dr. Steven L. Lieberman, Alfred A. Montoya, RimaAnn O. Nelson, M. Christopher Saslo, Erica M. Scavella, Ryung Suh, and Mark T. Upton related to moving processors from the Department of Veterans Affairs to support the Immigration and Customs Enforcement Health Services Corps Communications related to moving processors from the Department of Veterans Affairs to support the Immigration and Customs Enforcement Health Services Corps exchanged between one or more of the following people: Shareef Elnahal, Alan J. Hirshberg, Dr. Steven L. Lieberman, Alfred A. Montoya, RimaAnn O. Nelson, M. Christopher Saslo, Erica M. Scavella, Ryung Suh, and Mark T. Upton and anyone identified as an employee, agent, consultant, or representative of one of the following organizations:
 - i. Department of Homeland Security (@dhs.gov)
 - ii. Immigration and Customs Enforcement (@ice.gov)

9. The release of these documents is in the public interest because it will provide increased transparency to understand VA's decisions and communications regarding any the diversion of resources to the Immigration and Customs Enforcement Health Corps and to analyze

the frequency and costliness of redirecting resources and personnel, as well as the ethics procedures being consulted.

10. On August 22, 2024, CASA received confirmation that Requests A and B were received and were consolidated as a single request under 24-16501-F (Exhibit C).

11. As the record above indicates, over 402 days have elapsed since the federal government received CASA's request, yet VA still has not made a determination with respect to it. *See Citizens for Responsibility and Ethics in Washington v. FEC*, 711 F.3d 180 (D.C. Cir. 2013). VA 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.

12. Given these facts, VA has not met its statutory obligations to provide the requested records for the request.

13. Through VA'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

14. CASA repeats and incorporates by reference each of the foregoing paragraphs as if fully set forth herein.

15. CASA's request was a properly submitted request for records within the possession, custody, and control of VA.

16. VA 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 proper FOIA requests.

17. VA is wrongfully withholding non-exempt agency records requested by CASA by failing to produce non-exempt records responsive to its requests.

18. VA's failure to provide all non-exempt responsive records violates FOIA.

19. 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 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: September 30, 2025

Respectfully submitted,

CENTER TO ADVANCE SECURITY
IN AMERICA

By Counsel:

/s/Josiah Contarino

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Counsel for the Plaintiff



August 19, 2024

U.S. Department of Veterans Affairs
Office of the Secretary

RE: FREEDOM OF INFORMATION ACT REQUEST

BACKGROUND:

Dear FOIA Officer:

This letter constitutes a request under the federal Freedom of Information Act (FOIA), 5 U.S.C. § 552. Recently, it was [reported](#) that the Department of Veterans Affairs was diverting resources to the Immigration and Customs Enforcement (ICE) Health Corps. This creates questions surrounding the frequency and costliness of moving resources to address immigration concerns rather than those in their constituency.

The information obtained is necessary to analyze the frequency and costliness of redirecting resources and personnel, as well as the ethics procedures being consulted.

RECORDS REQUEST:

CASA requests records created from January 1, 2023, to when the search is conducted of:

1. Communications to, from, or received by Denis R. McDonough, Tanya Bradsher, Shana Love-Holman, Margaret “Meg” Kabat, and Krystal M. Toles containing the following phrases and/or words: “Immigration and Customs Enforcement Health Services Corps”, “immigrant”, “migrant”, “ICE”, “undocumented”, “dreamer”, “noncitizen”, “detainee”, and “Health Services Corps”.
2. Records possessed or created by Denis R. McDonough, Tanya Bradsher, Shana Love-Holman, Margaret “Meg” Kabat, and Krystal M. Toles including records of meeting requests, virtual meeting invitations, call logs and any chats in the relevant virtual platforms (e.g., Microsoft Teams, Zoom, Webex, etc.), related to moving processors from the Department of Veterans Affairs to support the Immigration and Customs Enforcement Health Services Corps.
3. Calendar entries from Denis R. McDonough, Tanya Bradsher, Shana Love-Holman, Margaret “Meg” Kabat, and Krystal M. Toles related to moving processors from the Department of Veterans Affairs to support the Immigration and Customs Enforcement Health Services Corps.



4. Communications related to moving processors from the Department of Veterans Affairs to support the Immigration and Customs Enforcement Health Services Corps exchanged between one or more of the following people: Denis R. McDonough, Tanya Bradsher, Shana Love-Holman, Margaret “Meg” Kabat, and Krystal M. Toles and anyone identified as an employee, agent, consultant, or representative of one of the following organizations:
- Department of Homeland Security (@dhs.gov)
 - Immigration and Customs Enforcement (@ice.gov)

“Records” means any item, collection, or grouping of information. For purposes of this request, this includes any personal email messages, telephone voice mails or text messages, and internet ‘chat’ or social media messages, as well as any attachments to such documents or information.

We prefer to receive the report and all records in electronic format. To the extent practicable, we seek electronic copies of the records in native file format, or, if that is not practicable, with full metadata for all fields. 5 U.S.C. § 552(a)(3)(B) (agency shall provide records in any form or format if the record is readily reproducible in that form or format).

The Center to Advance Security in America (CASA) is a nonpartisan organization 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.

CASA is focused on public education, and all materials and information requested will be disseminated to the public for this purpose. Thus, the disclosure of the requested records would not be to our primary benefit but would be to the primary benefit of the general public. Further, these records focus on an issue of widespread public interest: communications by and between VA leadership regarding the moving of essential VA processing staff away from their mission to support the Immigration and Customs Enforcement Health Services Corps. For these reasons, we request a fee waiver pursuant to the FOIA Act, which provides for fee waivers when: (1) “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”; and (2) disclosure “is not primarily in the commercial interest of the requester.” 5 U.S.C. § 552(a)(4)(A)(iii); *see also* 40 C.F.R. § 2.107(l)(1).

Moreover, CASA is a representative of the news media for purposes of FOIA. *See* 5 U.S.C. § 552(a)(4)(A)(ii); *see also Cause of Action v. Federal Trade Commission*, 799 F.3d 1108, 1120 (D.C. Cir. 2015). To wit, CASA is an entity that gathers information, including through FOIA requests such as this one, that is of interest to at least a segment of the population. For example, CASA has launched investigations into the Department of Homeland Security’s reference to “false or misleading narratives,” which is of interest to Americans concerned about civil liberties, and the meaning of a “diplomatic boycott” of the 2022 Olympic Games, which is of interest to people concerned about human rights and America’s relationship with China. *See* CASA Press Releases, <https://advancing-america.org/category/press-releases/>.



CASA also takes the information it gathers and uses its editorial skills to turn it into distinct works, which are then distributed to an audience. For example, CASA has already produced several op-eds, *see* CASA Op-eds, <https://advancing-america.org/category/op-eds/>, and has provided editorial commentary that has been cited in multiple media reports. *See* CASA Media, <https://advancing-america.org/category/media/>. Going forward, CASA intends to continue to gather information, use its editorial skill to turn that information into distinct works, including, but not limited to, press releases, editorial comments to other publications, op-eds and other written works, and social media engagement. *See Cause of Action*, 799 F.3d at 1122 (“A substantive press release or editorial comment can be a distinct work based on the underlying material, just as a newspaper article about the same documents would be — and its composition can involve ‘a significant degree of editorial discretion.’”) (quoting *Nat. Sec. Archive v. U.S. Dept. of Defense*, 880 F.2d 1381, 1387 (D.C. Cir. 1989)). At minimum, CASA will post distinct works on its website and email them to email list subscribers. CASA will also work with an ever-growing list of journalists to reach its audience. For these reasons, at minimum CASA qualifies for a waiver from search and production costs as a representative of the news media.

If this request is denied in whole or part, please justify all such denials by reference to specific exemptions, and provide an explanation of why the Department of Veterans Affairs “reasonably foresees that disclosure would harm an interest” protected by that exemption or why “disclosure is prohibited by law[.]” 5 U.S.C. § 552(a)(8). Please also ensure that all segregable portions of otherwise exempt material are released.

If you have any questions regarding this request, please feel free to contact me at james@advancing-america.org.

CASA looks forward to your determination within 20 working days of this request, as is required by FOIA. 5 U.S.C. § 552(a)(6)(A)(i). Thank you in advance for your assistance in this matter.

Sincerely,

James Fitzpatrick
Director
Center to Advance Security in America
1802 Vernon Street NW
PMB2095
Washington, DC 20009
United States



August 19, 2024

U.S. Department of Veterans Affairs
Veterans Health Administration

RE: FREEDOM OF INFORMATION ACT REQUEST

BACKGROUND:

Dear FOIA Officer:

This letter constitutes a request under the federal Freedom of Information Act (FOIA), 5 U.S.C. § 552. Recently, it was reported that the Department of Veterans Affairs was diverting resources to the Immigration and Customs Enforcement (ICE) Health Corps. This creates questions surrounding the frequency and costliness of moving resources to address immigration concerns rather than directing those resources to carry out the mission of the agency.

The information obtained is necessary to analyze the frequency and costliness of redirecting resources and personnel, as well as the ethics procedures being consulted.

RECORDS REQUEST:

CASA requests records created from January 1, 2023, to when the search is conducted of:

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2. Records possessed or created by Shareef Elnahal, Alan J. Hirshberg, Dr. Steven L. Lieberman, Alfred A. Montoya, RimaAnn O. Nelson, M. Christopher Saslo, Erica M. Scavella, Ryung Suh, and Mark T. Upton including records of meeting requests, virtual meeting invitations, call logs and any chats in the relevant virtual platforms (e.g., Microsoft Teams, Zoom, Webex, etc.), related to moving processors from the Department of Veterans Affairs to support the Immigration and Customs Enforcement Health Services Corps.

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CASA is focused on public education, and all materials and information requested will be disseminated to the public for this purpose. Thus, the disclosure of the requested records would not be to our primary benefit but would be to the primary benefit of the general public. Further, these records focus on an issue of widespread public interest: communications by and between VHA leadership regarding the moving of essential VA processing staff away from their mission to support the Immigration and Customs Enforcement Health Services Corps. For these reasons, we request a fee waiver pursuant to the FOIA Act, which provides for fee waivers when: (1) “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”; and (2) disclosure “is not primarily in the commercial interest of the requester.” 5 U.S.C. § 552(a)(4)(A)(iii); *see also* see 40 C.F.R. § 2.107(l)(1).

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If this request is denied in whole or part, please justify all such denials by reference to specific exemptions, and provide an explanation of why the Department of Veterans Affairs “reasonably foresees that disclosure would harm an interest” protected by that exemption or why “disclosure is prohibited by law[.]” 5 U.S.C. § 552(a)(8). Please also ensure that all segregable portions of otherwise exempt material are released.

If you have any questions regarding this request, please feel free to contact me at james@advancing-america.org.

CASA looks forward to your determination within 20 working days of this request, as is required by FOIA. 5 U.S.C. § 552(a)(6)(A)(i). Thank you in advance for your assistance in this matter.

Sincerely,

James Fitzpatrick
Director
Center to Advance Security in America
1802 Vernon Street NW
PMB2095
Washington, DC 20009
United States

VHA FOIA Request 24-16578-F Consolidation under 24-16501-F



From <Debbie.Gramlick@va.gov>
To <james@advancing-america.org>
Cc <debbie.gramlick@va.gov>
Date 2024-08-22 19:33

 24-16501-F Aggregation with 24-16578-F.pdf (~310 KB)  24-16501-F Incoming.pdf (~130 KB)

Mr. Fitzpatrick,

The purpose of this email is to notify you that your VHA FOIA requests 24-16578-F and 24-16501-F are being consolidated into a single request. Please refer to the attachments for details.

If you have any questions, please contact me at debbie.gramlick@va.gov or 202-380-5901.

Sincerely,

Debbie Gramlick

VHA FOIA Officer



Veterans Health Administration
VHA FOIA Office (105HIG)
810 Vermont Avenue NW
Washington, DC 20420

In Reply Refer To: **O A R**

August 22, 2024

James Fitzpatrick
Center to Advance Security in America
1802 Vernon Street NW
Washington, DC 20009
james@advancing-america.org

Dear Mr. Fitzpatrick:

This letter acknowledges receipt of your August 19, 2024, Freedom of Information Act (FOIA) request to the Department of Veterans Affairs (VA) the following records:

CASA requests records created from January 1, 2023, to when the search is conducted of:

1. Communications to, from, or received by Krystal M. Toles containing the following phrases and/or words: "Immigration and Customs Enforcement Health Services Corps", "immigrant", "migrant", "ICE", "undocumented", "dreamer", "noncitizen", "detainee", and "Health Services Corps".
2. Records possessed or created by Krystal M. Toles including records of meeting requests, virtual meeting invitations, call logs and any chats in the relevant virtual platforms (e.g., Microsoft Teams, Zoom, Webex, etc.), related to moving processors from the Department of Veterans Affairs to support the Immigration and Customs Enforcement Health Services Corps.
3. Calendar entries from Krystal M. Toles related to moving processors from the Department of Veterans Affairs to support the Immigration and Customs Enforcement Health Services Corps.
4. Communications related to moving processors from the Department of Veterans Affairs to support the Immigration and Customs Enforcement Health Services Corps exchanged between one or more of the following people: Krystal M. Toles and anyone identified as an employee, agent, consultant, or representative of one of the following organizations:
 - Department of Homeland Security (@dhs.gov)
 - Immigration and Customs Enforcement (@ice.gov)

VA FOIA implementing regulation 38 C.F.R. §1.561 provides for the aggregating of like requests. This consolidation will help ensure we provide accurate information in a timely manner. Accordingly, your FOIA request under tracking number 24-16578-F is being consolidated or aggregated into a single request with FOIA Request 24-16501-F. As such, please refer to FOIA request number on any future communication regarding these requests.

I will be your primary point of contact for this consolidated request. If you have any questions, please contact me at Debbie.gramlick@va.gov or 202-380-5901.

Sincerely,

A handwritten signature in black ink that reads "Debbie Gramlick". The signature is written in a cursive style with a large, looped initial "D".

Debbie Gramlick
VHA FOIA Officer

Enclosure: FOIA Request No. 24-16501-F