

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CITIZENS FOR RESPONSIBILITY AND
ETHICS IN WASHINGTON,

Plaintiff,

v.

U.S. DEPARTMENT OF HOMELAND
SECURITY,

Defendant.

Civil Action No. 23-0046 (AHA)

PLAINTIFF’S STATEMENT OF UNDISPUTED MATERIAL FACTS

Pursuant to Local Civil Rule 7(h), Plaintiff Citizens for Responsibility and Ethics in Washington (“CREW”) submits this Statement of Undisputed Material Facts in this Freedom of Information Act (“FOIA”) suit against the U.S. Department of Homeland Security (“DHS”).

1. The Oath Keepers is an anti-government militia group that focuses on recruiting former and current military and law enforcement personnel founded and led by Stewart Rhodes. *Final Report of the U.S. House Select Committee to Investigate the January 6th Attack on the United States Capitol*, H.R. Rep. No. 117-663, at 512 (2022), available at <https://www.govinfo.gov/content/pkg/GPO-J6-REPORT/pdf/GPO-J6-REPORT.pdf> (“Jan. 6 Report”).

2. Preceding the September 2020 communications at issue in this FOIA suit, the Oath Keepers were known nationally for their organizing of “armed groups, ostensibly to serve as volunteer, self-appointed security at protests around the country” during anti-lockdown protests and Black Lives Matter rallies. *Id.* at 513. “Stewart Rhodes, the group’s leader,” and the subject of the communications at issue here “had agitated against the U.S. Government for

years.” *Id.* at 500 (citing Mike Levine, *How a standoff in Nevada years ago set the militia movement on a crash course with the US Capitol*, ABC News (Jan. 5, 2022),

<https://abcnews.go.com/US/standoff-nevada-years-ago-set-militia-movement-crash/story?id=82051940> (describing the Oath Keepers’ role in armed standoffs with federal agents at Bundy Ranch in Bunkerville, Nevada, in 2014 and in Burns, Oregon, in 2016, which resulted in bloodshed)).

3. The Oath Keepers played a leading role in the January 6, 2021 insurrection at the United States Capitol. Jan. 6 Report at 512-514.

4. During the attack itself, members of the Oath Keepers formed two military “stacks,” marched up the Capitol’s East Plaza steps, and forced their way inside the building. *Id.* at 658.

5. This attack delayed Congress’s constitutionally mandated counting of the states’ electoral votes for the first time in American history. *Id.* at 264, 300, 430, 466.

6. Fourteen Oath Keepers, including Rhodes, were later convicted of felonies—including seditious conspiracy—relating to their efforts to “oppose by force the execution of the laws governing the transfer of presidential power” on January 6, 2021.¹

7. During Rhodes’ criminal trial, a former member of the Oath Keepers stated he observed Rhodes speaking on the phone with a Secret Service agent about what weapons the

¹ *Four Oath Keepers Found Guilty of Seditious Conspiracy Related to U.S. Capitol Breach*, U.S. Dep’t of Justice (Jan. 23, 2023), <https://www.justice.gov/opa/pr/four-oath-keepers-found-guilty-seditious-conspiracy-related-us-capitol-breach>; *Leader of Oath Keepers and Oath Keepers Member Found Guilty of Seditious Conspiracy and Other Charges Related to U.S. Capitol Breach*, U.S. Dep’t of Justice (Nov. 29, 2022), <https://www.justice.gov/opa/pr/leader-oath-keepers-and-oath-keepers-member-found-guilty-seditious-conspiracy-and-other>; *Six Additional Oath Keepers Members and Affiliates Found Guilty of Charges Related to Capitol Breach*, U.S. Dep’t of Justice (Mar. 21, 2023), <https://www.justice.gov/opa/pr/six-additional-oath-keepers-members-and-affiliates-found-guilty-charges-related-capitol>.

group's members could carry at a September 2020 Trump rally. Rachel Weiner & Carol D. Leonnig, *Secret Service reached out to Oath Keepers before Jan. 6 riot*, Wash. Post (Oct. 12, 2022), <https://www.washingtonpost.com/dc-md-va/2022/10/12/oath-keepers-secret-service-trial/>.

8. Additional reporting then emerged claiming that members of the Secret Service had multiple phone calls with one or more members of the Oath Keepers in the months leading up to January 6. See Hannah Rabinowitz & Holmes Lybrand, *Oath Keepers leader was in touch with US Secret Service in late 2020, former Oath Keeper testifies*, CNN (Oct. 6, 2022), <https://www.cnn.com/2022/10/06/politics/oath-keepers-trial-secret-service/index.html>.

9. The House Select Committee to Investigate the January 6th Attack on the United States Capitol requested Secret Service records of all contacts between the agency and the Oath Keepers. See Julia Ainsley & Ali Vitali, *Congress asks Secret Service for an account of all contacts between agency, Oath Keepers up to and on Jan. 6, 2021*, NBC News (Oct. 14, 2022), <https://www.nbcnews.com/politics/congress/congress-asks-secret-service-account-contacts-oath-keepers-jan-6-2021-rcna52295>.

10. On December 23, 2024, a federal judge found a Washington, D.C. Metropolitan Police officer guilty of federal crimes related to his communications with another January 6th organizer later convicted of seditious conspiracy, then-Proud Boys chairman Enrique Tarrio, including by warning Tarrio that he had a warrant out for his arrest. See Ryan J. Reilly, *Former D.C. police intel chief found guilty of tipping off Proud Boys leader ahead of Jan. 6 attack*, NBC News (Dec. 23, 2024), <https://www.nbcnews.com/politics/justice-department/former-dc-police-intel-chief-guilty-tipping-proud-boys-leader-ahead-ja-rcna185206>.

11. The Secret Service has publicly stated that that “The US Secret Service doesn’t have enough information to say whether or not this call actually took place,” referring to the call between Rhodes and a Secret Service agent. Hannah Rabinowitz & Holmes Lybrand, *Oath Keepers leader was in touch with US Secret Service in late 2020, former Oath Keeper testifies*, CNN (Oct. 6, 2022), <https://www.cnn.com/2022/10/06/politics/oath-keepers-trial-secret-service/index.html>.

12. In early 2022, U.S. District Judge David Carter evaluated the Trump-Eastman scheme to pressure the Vice President. Judge Carter described it as “a campaign to overturn a democratic election, an action unprecedented in American history.” Jan. 6 Report at 430 (citing Order Re Privilege of Documents Dated January 4-7, 2021 at 44, *Eastman v. Thompson et al.*, 594 F. Supp. 3d 1156 (C.D. Cal. Mar. 28, 2022) (No. 8:22-cv-99-DOC-DFM)).

Date: January 10, 2025

Respectfully Submitted,

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