IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CITIZENS FOR RESPONSIBILITY AND ETHICS IN WASHINGTON,
[redacted]

Plaintiff,

v.

U.S. DEPARTMENT OF HOMELAND SECURITY,
245 Murray Lane, SW
Washington, DC 20528,

Defendants.

Civil Action No. _____

COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

1. Plaintiff Citizens for Responsibility and Ethics in Washington ("CREW") brings this action under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, seeking records relating to allegations that one or more members of the United States Secret Service ("USSS") had communications between August 1, 2020 and January 31, 2021 with known members of the Oath Keepers, a far-right militia group that played a large role in the January 6, 2021 attack on the United States Capitol in an attempt to stop the certification of the 2020 presidential election.

2. CREW seeks declaratory relief that Defendants have violated FOIA by failing to timely respond to CREW's requests, and injunctive relief requiring Defendants to immediately process and release the requested records.

Jurisdiction and Venue

3. This Court has subject-matter jurisdiction and personal jurisdiction under 5 U.S.C. §§ 552(a)(4)(B) and 552(a)(6)(C)(i). The Court also has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 2201(a), and 2202.

4. Venue lies in this district under 5 U.S.C. § 552(a)(4)(B).

Parties

5. Plaintiff CREW is a non-profit, non-partisan organization organized under section 501(c)(3) of the Internal Revenue Code. CREW is committed to protecting the rights of citizens to be informed about the activities of government officials and agencies, and to ensuring the integrity of government officials and agencies. CREW seeks to empower citizens to have an influential voice in government decisions and in the government decision-making process through the dissemination of information about public officials and their actions. To advance its mission, CREW uses a combination of research, litigation, and advocacy. As part of those efforts, CREW uses government records it obtains under FOIA.

6. Defendant United States Department of Homeland Security ("DHS") is an agency within the meaning of 5 U.S.C. § 552(f)(1). The USSS is a component of DHS. DHS has possession, custody, and control of records responsive to CREW's FOIA request.

Factual Background

7. On October 14, 2022, it was publicly reported that a USSS agent had multiple phone calls with members of the Oath Keepers, a far-right anti-government militia organization, in 2020. Following this revelation, the House Select Committee to Investigate the January 6th

Attack on the United States Capitol (the "Select Committee") requested USSS records of all contacts between the agency and the Oath Keepers leading up to January 6, 2021.[1]

8. The Select Committee's request followed testimony from a former Oath Keepers member during the seditious conspiracy trial of Oath Keepers leader Stewart Rhodes. The former member stated he observed Rhodes speaking on the phone with a USSS agent about "what weapons the group's members could carry" at a September 2020 Trump rally.[2]

9. To help answer questions about this issue, CREW submitted a FOIA request to DHS on October 21, 2022, seeking all communications between the USSS and any member of the Oath Keepers between August 1, 2020 and January 31, 2021, including but not limited to the following members of the Oath Keepers: Stewart Rhodes, Thomas Caldwell, Kelly Meggs, Kenneth Harrelson, Jessica Watkins, Joshua James, Brian Ulrich, William Todd Wilson, Joseph Hackett, Roberto Minuta, David Moerschel, Edward Vallejo, Kellye SoRelle, Richard Mack, and Wendy Rogers.

10. CREW's request sought a fee waiver.

11. On October 21, 2022, CREW received confirmation via email that DHS had received CREW's request and was provided the file number 20230100.

12. To date, CREW has received no other communications from Defendant regarding its October 21, 2022 FOIA request.

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[1] Dan Mangan, Jan. 6 Capitol Riot Panel Briefed on Multiple Calls between Secret Service and Oath Keepers, NBC News Reports, October 14, 2022, https://perma.cc/Z3KY-YG3B.
[2] *Id*.

CREW'S CLAIM FOR RELIEF

DHS's Wrongful Withholding of Records Responsive to CREW's FOIA Request

13. CREW repeats and re-alleges the foregoing paragraphs.

14. In its October 21, 2022 FOIA request, CREW properly asked for records within the possession, custody, and control of DHS and its component USSS.

15. DHS is wrongfully withholding records responsive to CREW's FOIA request.

16. DHS has failed to conduct an adequate search in response to CREW's FOIA request.

17. By failing to timely release all requested records in full to CREW, DHS is in violation of FOIA.

18. CREW is therefore entitled to injunctive and declaratory relief requiring immediate processing and disclosure of the records requested in its October 21, 2022 FOIA request to DHS.

Requested Relief

WHEREFORE, CREW respectfully requests that this Court:

1. Order Defendant to immediately and fully process CREW's FOIA request and disclose all non-exempt documents to CREW;

2. Issue a declaration that CREW is entitled to immediate processing and disclosure of the requested records;

3. Provide for expeditious proceedings in this action;

4. Retain jurisdiction of this action to ensure no agency records are wrongfully withheld;

5. Award CREW its costs and reasonable attorneys' fees in this action; and

6. Grant such other relief as the Court may deem just and proper.

Date: January 6, 2023

Respectfully Submitted,

/s/ Laura Iheanachor
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