

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

ANNA BOWER, BENJAMIN WITTES, and
AMERICAN CIVIL LIBERTIES UNION,

Plaintiffs,

v.

UNITED STATES SOCIAL SECURITY
ADMINISTRATION, and UNITED STATES
CITIZENSHIP AND IMMIGRATION
SERVICES,

Defendants.

No. 1:25-cv-2713

ORAL ARGUMENT REQUESTED

**MEMORANDUM IN SUPPORT OF PLAINTIFF'S
MOTION FOR PRELIMINARY INJUNCTION**

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INTRODUCTION

The United States has never had a searchable national citizenship registry. Congress has passed no law requiring one. Yet it appears that the Defendant agencies have now created one, by altering the Systematic Alien Verification for Entitlements (SAVE) program to permit it to draw upon sensitive personal data taken from various governmental departments. Defendants have done this without any public disclosures regarding their handling of Americans' personal data, without publishing notice in the Federal Register, without any oversight, and conceivably without concern for the highly sensitive nature of the personal information at issue. State and local entities are already making use of the newly compiled data. And Defendant agency U.S. Citizenship and Immigration Services (USCIS) has also reportedly provided private briefings about the SAVE program to favored non-governmental advocacy groups.

There is an urgent need for transparency about what these agencies are doing with millions of individuals' highly sensitive personal information, who has been granted access to this highly sensitive information, and what information has been swept up in this effort. Yet Plaintiffs Anna Bower, Benjamin Wittes, and the American Civil Liberties Union (ACLU) (collectively, Plaintiffs) have been stonewalled in their effort to seek such information. Plaintiffs thus seek expedited processing of their Freedom of Information Act (FOIA) requests (the Requests) for records relating to the SAVE program and related federal data sources which are being held out for use by state and local entities to purge voters from their registration rolls.

This Court should issue a preliminary injunction to end Defendants' stonewalling. It should order Defendants to grant Plaintiffs' request for expedited processing of the Requests and to fully process and produce all non-exempt records on an expedited basis. Plaintiffs meet the requirements for a preliminary injunction because they are likely to succeed in their request for expedited processing, they will suffer irreparable harm absent a preliminary injunction, and the balance of

the equities and the public interest weigh in favor of granting relief. This Court recently issued a preliminary injunction granting expediting processing of another FOIA request aimed at unprecedented changes to federal systems and programs. *See Citizens for Resp. & Ethics in Wash. v. U.S. DOGE Serv.*, 769 F. Supp. 3d 8, 20 (D.D.C. 2025) [hereinafter *CREW*]. The same relief is warranted here.

BACKGROUND

I. DOGE, SSA, and USCIS Activity

On March 25, 2025, President Trump issued an executive order directing, among other things, “the Department of Homeland Security, in coordination with the DOGE Administrator”¹ to review state voter registration lists “alongside Federal immigration databases” and for the Commissioner of Social Security to take action “to make available the Social Security Number Verification Service, the Death Master File, and any other Federal databases containing relevant information.” *See* Exec. Order No. 14,248, 90 Fed. Reg. 14,005 (Mar. 25, 2025).

Following this executive order, Defendants began making changes to the SAVE program, which USCIS administers. The SAVE program was “designed to help states verify the citizenship and immigration status of people applying for government benefits,” and states are also permitted “to use it to help determine eligibility to vote in elections.” Brennan Center for Just., *Homeland Security’s “SAVE” Program Exacerbates Risks to Voters* (July 21, 2025),

¹ In August 2014, President Obama founded the U.S. Digital Service within the Office of Management and Budget, with the goal of “br[inging] together the best engineering, design, and government talent to change our government’s approach to technology.” U.S. Digit. Serv., *Our mission*, <https://www.usds.gov/mission> (last visited May 28, 2025). On January 20, 2025, President Trump issued an executive order renaming the United States Digital Service as the “United States DOGE Service (USDS),” with “DOGE” standing for “Department of Government Efficiency.” Exec. Order No. 14,158, 90 Fed. Reg. 8441 (Jan. 20, 2025). Within the United States DOGE Service, President Trump established a temporary organization, “the U.S. DOGE Service Temporary Organization,” pursuant to 5 U.S.C. § 3161. *Id.*

<https://www.brennancenter.org/our-work/research-reports/homeland-securitys-save-program-exacerbates-risks-voters>. Though SAVE is often referred to as a “database,”² the SAVE program is “not itself a data repository”; rather, it “is a tool for querying various datasets” maintained by the federal government. *Id.* Following the executive order, Defendants modified the SAVE program to enable it to query sensitive information gleaned from new federal data sources, including sources maintained by the SSA. *See* U.S. Citizenship & Immigr. Servs., *USCIS Deploys Common Sense Tools to Verify Voters* (May 22, 2025), <https://www.uscis.gov/newsroom/news-releases/uscis-deploys-common-sense-tools-to-verify-voters>.

Defendant SSA controls sensitive personal and financial data, including Social Security numbers, drivers’ license numbers, home and work addresses, bank and credit card information, tax information, income and work history, birth and marriage certificates, and medical, mental health, and hospitalization records. It has data for everyone who has a Social Security number, everyone who has Medicare, and everyone who has applied for Supplemental Security Income. About 72.5 million people receive Social Security benefits, and hundreds of millions have a Social Security number. In other words, the SSA controls sensitive personal data for virtually the entire population of the United States. Defendant USCIS also controls sensitive personal data, including detailed information about all naturalized citizens, permanent residents, asylum applicants, refugees, and other visa applicants.

On April 22, 2025, the Department of Homeland Security (“DHS”) announced that, in partnership with “USCIS and the Department of Government Efficiency (DOGE),” it had conducted “a comprehensive optimization of the Systematic Alien Verification for Entitlements

² *See, e.g.*, U.S. Dep’t of Homeland Security, *DHS, USCIS, DOGE Overhaul Systematic Alien Verification for Entitlements Database* (Apr. 22, 2025), <https://www.dhs.gov/news/2025/04/22/dhs-uscis-doge-overhaul-systematic-alien-verification-entitlements-database>.

(SAVE) database to ensure a single, reliable source for verifying non-citizen status nationwide.” U.S. Dep’t of Homeland Security, *DHS, USCIS, DOGE Overhaul Systematic Alien Verification for Entitlements Database* (Apr. 22, 2025), <https://www.dhs.gov/news/2025/04/22/dhs-uscis-doge-overhaul-systematic-alien-verification-entitlements-database>. The press release did not detail what this “optimization” entailed.

On May 22, 2025, USCIS issued a press release stating that “U.S. Citizenship and Immigration Services updated the Systematic Alien Verification for Entitlements (SAVE) program to ensure a single, reliable source for verifying immigration status and U.S. citizenship nationwide. State and local authorities can input Social Security numbers to help verify U.S. citizenship and prevent aliens from voting in American elections.” U.S. Citizenship & Immigr. Servs., *USCIS Deploys Common Sense Tools to Verify Voters* (May 22, 2025), <https://www.uscis.gov/newsroom/news-releases/uscis-deploys-common-sense-tools-to-verify-voters>. Again, the press release contained no details about what updates Defendants made to the SAVE program.

Prior to Defendants’ changes to the SAVE program, the United States had never before created a comprehensive “searchable national citizenship data system,” let alone one open to access by literally thousands of federal, state, and local officials. Jude Joffe-Block & Miles Parks, *The Trump Administration Is Building a National Citizenship Data System*, Nat’l Public Radio (June 29, 2025), <https://www.npr.org/2025/06/29/nx-s1-5409608/citizenship-trump-privacy-voting-database> [hereinafter *National Citizenship Data System*]. Indeed, multiple state election officials have indicated that they are already making use of the updated SAVE program and potentially other federal databases, risking the purge of properly registered voters from the voter rolls. Ex. A to Declaration of Theresa J. Lee (“Lee Decl.”) at 9–10.³

³ See, e.g., American Oversight, *Behind Texas’ Voter Citizenship Check Agreement with DHS*

Defendants appear to have undertaken these novel changes to the SAVE program without abiding by ordinary processes and legal requirements. For example, the Privacy Act requires agencies to publish notice when they modify any group of “records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual” in the Federal Register, and to provide the public with an opportunity to comment on the proposed changes. 5 U.S.C. § 552a(a)(5); (e)(4), (11). USCIS has previously published updates to such systems of records notices (SORNs) upon making far more routine modifications to the SAVE program. *See, e.g.*, 85 Fed. Reg. 31798 (May 27, 2020), <https://www.federalregister.gov/documents/2020/05/27/2020-11390/privacy-act-of-1974-system-of-records>. Yet these major changes do not appear to have been accompanied by any update to the system of records notice. *See* Justin Levitt, *USCIS updates SAVE immigration database to be queried with Social Security numbers*, Election Law Blog (May 26, 2025), <https://electionlawblog.org/?p=150026>. Nor was any opportunity to comment provided prior to the implementation of these changes. *See id.*

Contemporaneous statements made by those entrusted with highly sensitive, personal records reinforce that Defendants took steps to cooperate with DOGE outside of ordinary processes and chains of command. For example, Leland Dudek, who served as Acting Commissioner of the

(July 22, 2025), <https://americanoversight.org/behind-texas-voter-citizenship-check-agreement-with-dhs/>; Ind. Sec’y of State Diego Morales, *Indiana Secretary of State Diego Morales Signs Agreement with Department of Homeland Security to Identify Noncitizens on Indiana Voter Rolls* (July 7, 2025), <https://events.in.gov/event/indiana-secretary-of-state-diego-morales-signs-agreement-with-department-of-homeland-security-to-identify-noncitizens-on-indiana-voter-rolls>; La. Sec’y of State (@Louisiana_sos), X (May 23, 2025 at 9:45am), https://x.com/louisiana_sos/status/1925911062727061970?s=46 (Louisiana Secretary of State announcing that “Louisiana is the first state to use the new @DOGE voter list maintenance database!”); Dep’t of Gov’t Efficiency (@DOGE), X (May 23, 2025 at 3:12pm), <https://x.com/doge/status/1925993168652112308?s=46> (DOGE posting: “Great job by @Louisiana_sos, using the new (and free) federal SAVE database to ensure voter integrity.”).

Social Security Administration during much of the period when changes to the SAVE program were being made, has “confess[ed]” that he has “bullied agency executives, shared executive contact information, and circumvented the chain of command to connect DOGE with the people who get stuff done.” Letter from Sen. E. Warren to L. Dudek (Mar. 2, 2025), https://www.warren.senate.gov/imo/media/doc/letter_to_ssa_re_doge_data_access.pdf; *see also* Elon Musk (@elonmusk), X (Feb. 19, 2025 at 10:18pm), <https://perma.cc/56BW-MUBB>.

Despite Defendants’ apparent failure to apprise the public of its changes via a system of records notice or any other form of notice or opportunity to comment, reporting has indicated that USCIS employee David Jennings, who oversees the SAVE program, has briefed the so-called Election Integrity Network—an “election denial activist network”⁴ that has engaged in prior attempts to improperly disenfranchise voters through mass challenges to their eligibility⁵—on the tool and the recent changes. Joffe-Block & Parks, *National Citizenship Data System*. When groups that work to protect the right to vote requested that USCIS provide them with the same briefing, USCIS brushed them aside. Lee Decl. ¶¶ 13–14.

II. Procedural History

A. Plaintiffs’ FOIA Requests

On June 23, 2025, Plaintiffs submitted their FOIA Requests to four agencies, including Defendants, seeking information related to the SAVE program, related federal databases, and the

⁴ George Chidi & Sam Levine, *Republican who refused to certify Georgia primary a member of election denialist group*, The Guardian (June 4, 2024), <https://www.theguardian.com/us-news/article/2024/jun/04/republican-julie-adams-georgia-election-integrity-network>.

⁵ Alexandra Berzon, *Activists File ‘Bad-Faith’ Ballot Challenges, Pennsylvania Officials Say*, N.Y. Times (Nov. 4, 2024), <https://www.nytimes.com/2024/11/04/us/politics/pennsylvania-ballot-challenges.html>; Alexandra Berzon et al., *Inside the Movement Behind Trump’s Election Lies*, N.Y. Times (Oct. 28, 2024), <https://www.nytimes.com/interactive/2024/10/28/us/politics/inside-the-movement-behind-trumps-election-lies.html>.

government's decisions related to making such information accessible to thousands of state and local entities. Lee Decl. ¶¶ 7–9; Ex. A–B to Lee Decl.

The Requests sought expedited processing on the grounds that there was “a ‘compelling need’” for the records, “because the information requested is ‘urgen[tly]’ needed by an organization primarily engaged in disseminating information ‘to inform the public concerning actual or alleged Federal Government activity.’” Ex. A to Lee Decl. at 5 (quoting 5 U.S.C. § 552(a)(6)(E)(v)(II)). The Request explained that Plaintiffs Bower and Wittes are journalists at *Lawfare* who are “primarily engaged in disseminating information,” underscoring that “[c]ourts regularly find that reporters and members of the media qualify’ for expedited processing under 5 U.S.C. § 552(a)(6)(E).” Ex. A to Lee Decl. at 7 (quoting *Landmark Legal Found. v. E.P.A.*, 910 F. Supp. 2d 270, 275 (D.D.C. 2012)).⁶ The Requests further explained that there is “an urgent[] need[] to inform the public about actual or alleged government activity” because the records sought relate to a matter of widespread and exceptional media and public interest, and non-federal actors had indicated that they were already putting the first-of-its-kind program to use, at the risk of properly registered voters being purged from the voter rolls. Ex. A to Lee Decl. at 9–10. The urgency and importance of the Request were further “enhanced in light of the statements made by those entrusted with some of the most sensitive, personal records at issue in the Request about their

⁶ Because Plaintiffs Bower and Wittes are so obviously “primarily engaged in disseminating information,” for the purposes of this motion, Plaintiffs do not rely on the status of the ACLU as also being “primarily engaged in disseminating information” as detailed in the Requests, as only one requester needs to be so engaged in order to meet the statutory standard. See *Al-Fayed v. C.I.A.*, 254 F.3d 300, 309 (D.C. Cir. 2001) (as long as one of the plaintiffs qualifies as an entity “primarily engaged in disseminating information,” the requirement is satisfied); *ACLU v. U.S. Dep’t of Just.*, 321 F. Supp. 2d 24, 29 n.5 (D.D.C. 2004); *Heritage Found. v. U.S. Env’t Prot. Agency*, No. CV 23-748 (JEB), 2023 WL 2954418, at *3 (D.D.C. Apr. 14, 2023).

cooperation with USDS outside of ordinary processes and chains of command,” *id.*, including those of the then-Acting Commissioner of Defendant SSA.

The Requests sought a waiver and limitation of fees on the grounds that disclosure of the requested records is in the public interest, as the disclosure is “likely to contribute significantly to public understanding of the operations or activities of the government” and is “not primarily in the commercial interest of the requester.” *Id.* at 11–12 (quoting 5 U.S.C. § 552(a)(4)(A)(iii)). In particular, the records sought related to Defendants’ apparent creation of a massive and completely unprecedented searchable government database of all U.S. citizens and immigrants, containing highly sensitive personal information for millions of people, and the granting of widespread access to this sensitive, government-held data a wide array of local officials and actors. Indeed, the Requests explained, the need for the requested information was especially acute because the revised SAVE program had already been shared with state and local actors, and thus the use of this sensitive data (and the consequent impact on registered voters) was imminent if not already ongoing. *Id.*

B. Agency Responses

In a June 23, 2025 email, Defendant SSA acknowledged receipt of Plaintiffs’ Request, and indicated that FOIA requests are centrally processed within the Office of Privacy and Disclosure. Ex. C to Lee Decl. Since that date, Plaintiffs have received no communication from Defendant SSA regarding the Request. Defendant USCIS has never sent a communication acknowledging receipt of Plaintiffs’ Request, but as it was submitted through the USCIS FOIA Portal, Plaintiffs can see that the Request is in “received” status, rather than “in process.” Lee Decl. ¶ 12; Ex. D to Lee Decl. The estimated completion date has shifted further back in time at least five times when viewing the request in the USCIS FOIA Portal. Lee Decl. ¶ 12. Each Defendant failed to respond to Plaintiffs’ request for expedited processing within 10 days, and more than twenty days have

elapsed since Plaintiffs filed the Request. Plaintiffs have therefore exhausted all administrative remedies. *See* 5 U.S.C. § 552(a)(6)(C)(i).

LEGAL STANDARD

To warrant a preliminary injunction, a plaintiff must show “(1) a substantial likelihood of success on the merits, (2) that it would suffer irreparable injury if the injunction were not granted, (3) that an injunction would not substantially insure other interested parties, and (4) that the public interest would be furthered by the injunction.” *Chaplaincy of Full Gospel Churches v. England*, 454 F.3d 290, 297 (D.C. Cir. 2006); *Aamer v. Obama*, 742 F.3d 1023, 1038 (D.C. Cir. 2014). When the government is the opposing party, the balance of equities and public interest factors merge. *Karem v. Trump*, 960 F.3d 656, 668 (D.C. Cir. 2020) (citation omitted).

ARGUMENT

I. Plaintiffs Are Likely to Succeed on the Merits

“Congress enacted the FOIA to promote transparency across the government.” *Pub. Invs. Arb. Bar Ass’n v. U.S. S.E.C.*, 930 F. Supp. 2d 55, 60 (D.D.C. 2013), *aff’d sub nom. Pub. Invs. Arb. Bar Ass’n v. S.E.C.*, 771 F.3d 1 (D.C. Cir. 2014). FOIA establishes a scheme by which agencies must make their records available to the public and specifies timelines by which agencies must comply. *See generally* 5 U.S.C. § 552.

Under FOIA, agencies must provide for the expedited processing of a request where there is a “compelling need” or show that it qualifies under another ground set out by the relevant agency. 5 U.S.C. § 552(a)(6)(E)(i). As relevant here, the statute defines “compelling need” to mean, “with respect to a request made by a person primarily engaged in disseminating information, urgency to inform the public concerning actual or alleged Federal Government activity.” *Id.* § 552(a)(6)(E)(v). Agencies must grant or deny a request for expedited processing within ten days, *id.* § 552(a)(6)(E)(ii)(I), and agencies must ensure for a swift process for appealing any denial, *id.*

§ 552(a)(6)(E)(ii)(II). Courts review denials of expedited processing “based on the record before the agency at the time of the determination.” *Id.* § 552(a)(6)(E)(iii).

Plaintiffs are likely to succeed on the merits of their challenge to the agencies’ failure to grant them expedited processing. As an initial matter, the failure to respond to the request within ten days is a blatant violation of FOIA’s requirements. And Plaintiffs are also likely to show that their Request demonstrates a “compelling need” sufficient to require expedited processing. As journalists, Plaintiffs Bower and Wittes are “primarily engaged in disseminating information.” And the information sought is of urgent interest to the public: It involves the creation of the first ever searchable national citizenship database, the nature and details of the newly accessible data including the types of sensitive personal information involved, the extent to which that data has been made accessible to numerous state and local actors, and the extent to which it is being used in states to target voters for removal from the voter rolls.

A. Plaintiffs Bower and Wittes are primarily engaged in the dissemination of information.

“Courts regularly find that reporters and members of the media qualify” for expedited processing under 5 U.S.C. § 552(a)(6)(E). *Landmark Legal Found. v. E.P.A.*, 910 F. Supp. 2d 270, 275 (D.D.C. 2012); *see also, e.g., Progress v. Consumer Fin. Prot. Bureau*, No. CV 17-686 (CKK), 2017 WL 1750263, at *4 (D.D.C. May 4, 2017) (noting that “courts in this Circuit and elsewhere have routinely held that media organizations and newspapers qualify under this category”); *Heritage Found. v. U.S. Env’t Prot. Agency*, No. CV 23-748 (JEB), 2023 WL 2954418, at *3 (D.D.C. Apr. 14, 2023) (explaining that writer for Daily Signal, a news outlet, is primarily engaged in disseminating information). As journalists, Plaintiffs Bower and Wittes are the paradigmatic requesters who are “primarily engaged in the dissemination of information.”

B. There is urgency to inform the public regarding changes to the SAVE program and materials being made accessible to state and local entities.

The Request shows that there is an “urgency to inform the public concerning actual or alleged Federal Government activity,” 5 U.S.C. § 552(a)(6)(E)(v). In the D.C. Circuit, courts consider the following factors in evaluating this question: “(1) whether the request concerns a matter of current exigency to the American public; (2) whether the consequences of delaying a response would compromise a significant recognized interest; and (3) whether the request concerns federal government activity.” *Protect Democracy Project, Inc. v. U.S. Dep’t of Just.*, 498 F. Supp. 3d 132, 139–40 (D.D.C. 2020) (quoting *Al-Fayed*, 254 F.3d at 310).

As to the first factor, the records sought by the Request relate to a matter of widespread and exceptional public interest. The records sought relate to novel and wide-ranging use of millions of persons’ sensitive data held by the federal government, including its use for purposes of compiling a massive searchable database of all U.S. citizens and immigrants, something that has never before occurred in this nation’s history. Heightening the public’s need for information, this new database has already been shared with and is in use by state and local officials, which means there is now an imminent if not ongoing potential privacy threat due to the use of this sensitive data, and an imminent, if not ongoing, potential threat to voters due to the potential misuse of the data by local officials for voter list maintenance. Ex. A to Lee Decl. at 9–10.

Second, a delay in response “would compromise a significant recognized interest” because “stale information is of little value,” *Protect Democracy Project*, 498 F. Supp. 3d at 139–40; indeed current information is especially pressing here as voters are actively at risk due to states’ current use of the updated SAVE program without any check on how data matching is proceeding in this rushed update to a massive federal program. A substantial delay in the production of Defendants’ records pertaining to the changes made to the SAVE program would prevent the public ““from

obtaining in a timely fashion information vital to the current and ongoing debate surrounding the legality of” a high-profile government action.” *CREW*, 769 F. Supp. 3d at 27 (D.D.C. 2025) (quoting *Protect Democracy Project, Inc. v. U.S. Dep’t of Def.*, 263 F. Supp. 3d 293, 299 (D.D.C. 2017)). And indeed the changes to the SAVE program and access provided thereto continues to be “the subject of a currently unfolding story.” *Brennan Ctr. for Just. at NYU Sch. of L. v. Dep’t of Com.*, 498 F. Supp. 3d 87, 98 (D.D.C. 2020) (quoting *ACLU*, 321 F. Supp. 2d at 30).

Lastly, the Request clearly concerns federal government activity. Defendants SSA and USCIS are both federal government agencies, *cf. Protect Democracy Project*, 498 F. Supp. 3d at 140 (U.S. Postal Service and Department of Justice), and DOGE’s operations are also federal government activity, *CREW*, 769 F. Supp. 3d at 25–26.

II. Plaintiffs Will Suffer Irreparable Harm Absent Preliminary Relief

To demonstrate irreparable harm, the party seeking a preliminary injunction must make two showings: “First, the harm must be certain and great, actual and not theoretical, and so imminent that there is a clear and present need for equitable relief to prevent irreparable harm. Second, the harm must be beyond remediation.” *League of Women Voters of U.S. v. Newby*, 838 F.3d 1, 7–8 (D.C. Cir. 2016) (cleaned up).

Plaintiffs have already suffered great and actual harm from Defendants’ violations of FOIA. Plaintiffs’ work in “obtaining information about government activities, analyzing that information, and widely publishing and disseminating it to the press and public,” Ex. A to Lee Decl. at 7, frequently relies on information obtained through FOIA, especially when concerning government operations shrouded in secrecy, as is the case here. Without expedited processing of the Request, Plaintiffs’ “ability to inform the public of ongoing proceedings of national importance” is hampered, *Ctr. for Pub. Integrity v. U.S. Dep’t of Def.*, 411 F. Supp. 3d 5, 12 (D.D.C. 2019); *see also Dunlap v. Presidential Advisory Comm’n on Election Integrity*, 286 F. Supp. 3d 96, 110

(D.D.C. 2017) (“District courts in this circuit have recognized that, where an obligation to disclose exists, plaintiffs may suffer irreparable harm if they are denied access to information that is highly relevant to an ongoing public debate.”); *Elec. Priv. Info. Ctr. v. Dep’t of Just.*, 416 F. Supp. 2d 30, 41 (D.D.C. 2006) (noting that the plaintiff would suffer irreparable harm because it would be precluded “from obtaining in a timely fashion information vital to the current and ongoing debate surrounding the legality of the Administration’s warrantless surveillance program”). The Requests are time sensitive due to the ongoing public debate regarding the federal government’s use of personal information and because thousands of state and local entities are already accessing this newly devised system. *See supra* Argument I.B. The presence of an ongoing public debate and need for timely information can also be seen with events that have occurred since the Request—there continues to be active press coverage of the updated SAVE program, related federal databases, and making information available to numerous state and local entities.⁷ And that press coverage generally raises far more questions than it can answer, given the paucity of public information about the changes actually made to the SAVE program. “*Timely* awareness is equally necessary because ‘stale information is of little value.’” *CREW*, 769 F. Supp. 3d at 28 (citation omitted). Thus, “courts have concluded that a delay in processing of a FOIA request would cause irreparable harm” in FOIA cases involving “ongoing proceedings of national importance.”

⁷ *See, e.g.*, Jude Joffe-Block & Miles Parks, *The Trump Administration Is Building a National Citizenship Data System*, Nat’l Public Radio (June 29, 2025), <https://www.npr.org/2025/06/29/nx-s1-5409608/citizenship-trump-privacy-voting-database>; Johana Bhuiyan, *Trump Officials Create Searchable National Citizenship Database*, The Guardian (June 30, 2025), <https://www.theguardian.com/us-news/2025/jun/30/trump-citizenship-database>; American Oversight, *Behind Texas’ Voter Citizenship Check Agreement with DHS* (July 22, 2025), <https://americanoversight.org/behind-texas-voter-citizenship-check-agreement-with-dhs/>; Jude Joffe-Block, *Democratic Senators Raise Concerns About a New Trump Citizenship Data System*, Nat’l Public Radio (July 17, 2025), <https://www.npr.org/2025/07/16/nx-s1-5469815/democrats-citizenship-trump-privacy-voting-database>.

Brennan Ctr., 498 F. Supp. 3d at 101 (citation omitted); *CREW*, 769 F. Supp. 3d at 28. This is one of those cases.

Perhaps even more critically, Defendant USCIS has provided a private briefing on the SAVE program to the Election Integrity Network, a non-governmental “election denial activist network”⁸ that has engaged in prior attempts to improperly disenfranchise voters through mass challenges to their eligibility.⁹ At the same time, Defendant USCIS has rejected a request to provide an identical briefing to entities that advocate for the right of voters. Lee Decl. ¶¶ 13–14; Exs. E–F to Lee Decl. In so doing, the government is improperly playing favorites in terms of who is entitled to government transparency. This is exactly what FOIA seeks to avoid. That the government is providing information to groups who seek to remove voters from the rolls while denying it to those who seek to ensure voter access raises the specter of improper use of the SAVE program, heightening the importance of public understanding here. This is a perfect example of the fact that “a public informed about its government’s actions is ‘a structural necessity in a real democracy.’” *Brennan Ctr.*, 498 F. Supp. 3d at 101 (quoting *Nat’l Archives & Records Admin. v. Favish*, 541 U.S. 157, 172 (2004)); *CREW*, 769 F. Supp. 3d at 28.

III. The Remaining Factors Strongly Favor Plaintiffs

The remaining two preliminary injunction factors—balance of equities and the public interest—weigh heavily in Plaintiffs’ favor. In practice, a court analyzing these two factors together “must carefully balance the equities by weighing the harm to the moving party and the public if

⁸ George Chidi & Sam Levine, *Republican Who Refused to Certify Georgia Primary a Member of Election Denialist Group*, *The Guardian* (June 4, 2024), <https://www.theguardian.com/us-news/article/2024/jun/04/republican-julie-adams-georgia-election-integrity-network>.

⁹ Alexandra Berzon, *Activists File ‘Bad-Faith’ Ballot Challenges, Pennsylvania Officials Say*, *N.Y. Times* (Nov. 4, 2024), <https://www.nytimes.com/2024/11/04/us/politics/pennsylvania-ballot-challenges.html>; Alexandra Berzon et al., *Inside the Movement Behind Trump’s Election Lies*, *N.Y. Times* (Oct. 28, 2024), <https://www.nytimes.com/interactive/2024/10/28/us/politics/inside-the-movement-behind-trumps-election-lies.html>.

there is no injunction against the harm to the government and the public if there is.” *Hanson v. Dist. of Columbia*, 120 F.4th 223, 246 (D.C. Cir. 2024).

An injunction would facilitate “citizens’ right to be informed about ‘what their government is up to.’” *U.S. Dep’t of Just. v. Reps. Comm. for Freedom of Press*, 489 U.S. 749, 773 (1989). “The basic purpose of FOIA is to ensure an informed citizenry, vital to the functioning of a democratic society, needed to check against corruption and to hold the governors accountable to the governed,” *NLRB v. Robbins Tire & Rubber Co.*, 437 U.S. 214, 242 (1978), and “[i]n a functioning democracy, an informed electorate always inures to the public benefit,” *Ctr. for Pub. Integrity*, 411 F. Supp. 3d at 15; *see also Ctr. to Prevent Handgun Violence v. U.S. Dep’t of Treasury*, 49 F. Supp. 2d 3, 5 (D.D.C. 1999) (“There is public benefit in the release of information that adds to citizens’ knowledge” about the activities of their government.). Likewise, “there is a substantial public interest in having governmental agencies abide by the federal laws that govern their existence and operations.” *Newby*, 838 F.3d at 12 (citation and quotation marks omitted); *see also Loving v. IRS*, 917 F. Supp. 2d 67, 81 (D.D.C. 2013). Granting the requested relief would serve these important interests.

In contrast, Defendants as government agencies by definition “cannot suffer harm from an injunction that merely ends an unlawful practice or reads a statute as required.” *Luokung Tech. Corp. v. Dep’t of Def.*, 538 F. Supp. 3d 174, 195 (D.D.C. 2021) (citations and quotation marks omitted). Here, the government is stonewalling in direct violation of their statutory responsibilities under FOIA and will not be harmed merely by being required to follow the law which should have already compelled their compliance. And to the extent Defendants argue they are burdened by having “to process and produce these records quickly, and fac[ing] substantial backlogs,” that burden “is outweighed by the [plaintiff]’s pressing need for the information and the public interest

in being informed on a matter . . . that is of ‘the highest national concern.’” *Brennan Ctr.*, 498 F. Supp. 3d at 103.

IV. This Court Should Waive the Bond Requirement

Finally, the Court should waive the requirement for Plaintiffs to post a bond. *See* Fed. R. Civ. P. 65(c). Trial courts possess broad discretion under Federal Rule of Civil Procedure 65(c) in determining whether to require security. *See DSE, Inc. v. United States*, 169 F.3d 21, 33 (D.C. Cir. 1999). This includes discretion “to dispense with any security requirement whatsoever where the restraint will do the defendant ‘no material damage.’” *Fed. Prescription Serv., Inc. v. Am. Pharm. Ass’n*, 636 F.2d 755, 759 (D.C. Cir. 1980) (citation omitted). Here, a preliminary injunction will not materially damage Defendants, as it would simply require it to fulfill its already existing obligations under FOIA.

CONCLUSION

For the foregoing reasons, Plaintiffs request that this Court issue a preliminary injunction requiring Defendants to immediately process their FOIA request and produce all nonexempt records on an expedited basis. Plaintiffs additionally ask that, in light of the extraordinary public interest and the urgency to inform the public, the Court order Defendants to each process potentially responsive records at a rate of no less than 1,000 pages per month. Alternatively, Plaintiffs ask the Court to order the parties to confer about a reasonable processing schedule, and to submit a joint letter setting out the parties’ positions for consideration of the Court.

Dated: August 21, 2025

Respectfully submitted,

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*motion for admission *pro hac vice* forthcoming

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

ANNA BOWER, BENJAMIN WITTES, and
AMERICAN CIVIL LIBERTIES UNION,

Plaintiffs,

v.

UNITED STATES SOCIAL SECURITY
ADMINISTRATION, and UNITED STATES
CITIZENSHIP AND IMMIGRATION
SERVICES,

Defendants.

No. 1:25-cv-2713

DECLARATION OF THERESA J. LEE

Pursuant to 28 U.S.C. § 1746, I, Theresa J. Lee, hereby declare as follows:

1. I am an attorney with the American Civil Liberties Union Foundation, where I am a Senior Staff Attorney in its Voting Rights Project. I am counsel to Plaintiffs in the above-entitled action. I make this declaration based on my personal knowledge and review of relevant files.

2. Plaintiff Anna Bower is a Senior Editor at *Lawfare*, a non-profit, non-partisan media organization dedicated to legal news and analysis. At *Lawfare*, Ms. Bower's reporting focuses on issues related to democracy and the rule of law, election law, and election security. Her professional biography is available at <https://www.lawfaremedia.org/contributors/abower>.

3. Plaintiff Benjamin Wittes is editor in chief of *Lawfare*, which he co-founded in 2010. In his own writing, he covers a range of issues related to the intersection of law and national security. In particular, he has written extensively about constitutional and separation of powers issues in connection with a range of President Trump's executive orders and administrative actions

in 2025. His professional biography is available at <https://www.lawfaremedia.org/contributors/bwittes>.

4. The American Civil Liberties Union (ACLU) is a non-profit, 26 U.S.C. § 501(c)(4) membership organization that educates the public about the civil liberties implications of government policies and practices and pending and proposed state and federal legislation, provides analysis of pending and proposed legislation and Executive Branch policies and practices, directly lobbies legislators and government officials, and mobilizes its members to communicate with elected and appointed officials.

5. The ACLU is also committed to principles of transparency and accountability in government, and seeks to ensure that the American public is informed about the conduct of its government in matters that affect civil liberties and human rights. Obtaining information about governmental activity, analyzing that information, and widely publishing and disseminating it to the press and the public is a critical and substantial component of the ACLU's work.

6. The ACLU is incorporated in the District of Columbia and has its principal place of business in New York City.

7. On June 23, 2025, Plaintiffs submitted FOIA Requests to four agencies: Defendant U.S. Citizenship and Immigration Services, Defendant U.S. Social Security Administration, the Department of Homeland Security, and the U.S. DOGE Service, seeking information related to the SAVE program and other federal databases.

8. The Request to USCIS sought "records for the period beginning at noon Eastern Standard Time on January 20, 2025—including but not limited to written communications (including but not limited to messages sent via email, SMS message, iMessage, Slack, Microsoft Teams, WhatsApp, Signal, or other platforms) and memoranda—concerning or referencing:"

- (1) Any changes made to the SAVE database since January 20, 2025, including but not limited to the addition of any categories of information, the ability to query the database by anything other than an Alien number, and the ability to query the database for more than one record at a time;
- (2) Any federal agencies that were authorized or permitted to access or use data maintained by the federal government to make changes to the SAVE database;
- (3) Any specific federal employees or contractors who were authorized or permitted to access or use data maintained by the federal government to make changes to the SAVE database;
- (4) Any steps taken to comply with Section 2 of Executive Order No. 14,248 (Mar. 25, 2025);
- (5) Any activity related to the updates described in USCIS Press Release: U.S. Citizenship & Immigration Servs., USCIS Deploys Common Sense Tools to Verify Voters (May 22, 2025), <https://www.uscis.gov/newsroom/news-releases/uscis-deploys-common-sense-tools-to-verify-voters>;
- (6) Any communications with other federal agencies regarding the compilation of data that can be used for voter roll list maintenance;
- (7) Any contact with an official of a state government, including but not limited to Florida, Iowa, Louisiana, Mississippi, Ohio, and Texas, regarding any data that can be used for voter roll list maintenance or is otherwise related to voter roll list maintenance;
- (8) Any communications with members or representatives of the Election Integrity Network, including but not limited to Cleta Mitchell.

A true and correct copy of the Request to USCIS is attached as Exhibit A to this Declaration.

9. The Request to SSA sought “records for the period beginning at noon Eastern Standard Time on January 20, 2025—including but not limited to written communications (including but not limited to messages sent via email, SMS message, iMessage, Slack, Microsoft Teams, WhatsApp, Signal, or other platforms) and memoranda—concerning or referencing:”

- (1) Any federal agencies other than the SSA that were authorized or permitted to access or use data maintained by the SSA to make updates to the SAVE database or otherwise in relation to voter roll list maintenance;
- (2) Any specific federal employees or contractors who were authorized or permitted to access or use data maintained by the SSA to make updates to the SAVE database or otherwise in relation to voter roll list maintenance;

- (3) Any steps taken to comply with Section 3 of Executive Order No. 14,248 (Mar. 25, 2025).
- (4) Any changes made to the SAVE database since January 20, 2025, including combining or matching data maintained by the SSA with that maintained in the SAVE database;
- (5) Any activity related to the updates described in USCIS Press Release: U.S. Citizenship & Immigration Servs., USCIS Deploys Common Sense Tools to Verify Voters (May 22, 2025), <https://www.uscis.gov/newsroom/newsreleases/uscis-deploys-common-sense-tools-to-verify-voters>;
- (6) Any communications with other federal agencies regarding the compilation of data that can be used for voter roll list maintenance;
- (7) Any contact with an official of a state government, including but not limited to Florida, Iowa, Louisiana, Mississippi, Ohio, and Texas, regarding any data that can be used for voter roll list maintenance or is otherwise related to voter roll list maintenance;
- (8) Any communications with members or representatives of the Election Integrity Network, including but not limited to Cleta Mitchell.

A true and correct copy of the Request to SSA is attached as Exhibit B to this Declaration.

10. In a June 23, 2025 email, Defendant SSA acknowledged receipt of Plaintiffs' Request, and indicated that FOIA requests are centrally processed within the Office of Privacy and Disclosure. A true and correct copy of that email is attached as Exhibit C to this Declaration.

11. Since June 23, 2025, Plaintiffs have received no communication from Defendant SSA regarding the Request.

12. Defendant USCIS has never sent a communication acknowledging receipt of Plaintiffs' Request, but as it was submitted through the USCIS FOIA Portal, Plaintiffs can see that the Request remains in "received" status, with an estimated completion date of September 30, 2025. The estimated completion date has shifted further back in time at least six times when viewing the Request in the FOIA Portal. A true and correct copy of the USCIS portal reflecting this information as of August 20, 2025, is attached as Exhibit D to this Declaration.

13. On July 29, 2025, a number of groups that work to advance democracy and the right to vote, including the ACLU, submitted a letter to USCIS requesting that they be given the same presentation that reporting indicated had been given to representatives of the Election Integrity Network. A true and correct copy of that letter is attached as Exhibit E to this Declaration.

14. On August 4, 2025, USCIS's Public Engagement Division responded to this request by thanking the groups for their contact and stating, "At this time, USCIS is assessing how we can best support engagement priorities across the Department of Homeland Security and will share information about future engagement opportunities soon." The communication directed the groups to USCIS's existing external facing media channels, which do not include the briefing provided to the Election Integrity Network. A true and correct copy of the responsive email from USCIS is attached as Exhibit F to this Declaration.

15. On August 19, 2025, because no attorney for Defendants had yet entered an appearance, counsel for Plaintiffs emailed the Civil Division Chief, Office of the United States Attorney for the District of Columbia, informing him that Plaintiffs intended to file a motion for a preliminary injunction to order Defendants to process Plaintiffs' FOIA requests and produce all nonexempt records on an expedited basis. Plaintiffs sought to learn the government's position on the motion and to confer as required by Local Rule 7(m). On August 20, 2025, the Civil Division Chief responded and indicated that the government opposes Plaintiffs' motion.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed on August 20, 2025


Theresa J. Lee

EXHIBIT A



Theresa J. Lee
Senior Staff Attorney
Voting Rights Project
ACLU National Legal Department

FOIA Request / Expedited Processing Requested

June 23, 2025

Electronically submitted via USCIS portal
U.S. Citizenship & Immigration Services
National Records Center
FOIA/PA Office
P.O. Box 648010
Lee's Summit, MO 64064-8010

**Re: Request Under the Freedom of Information Act
(Expedited Processing & Fee Waiver/Limitation Requested)**

To Whom It May Concern:

We submit this Freedom of Information Act ("FOIA") request (the "Request") for records pertaining to access to sensitive agency records and use of data across federal agencies with respect to information purported to be used for voter list maintenance by the U.S. Citizenship & Immigration Services ("USCIS"), on behalf of the American Civil Liberties Union, the American Civil Liberties Union Foundation (together, the "ACLU")¹, and journalists Anna Bower and Benjamin Wittes (collectively, the "Requesters").

I. Background

In August 2014, President Obama founded the U.S. Digital Service within the Office of Management and Budget, with the goal of "br[inging] together the best engineering, design, and government talent to change our government's approach to technology." U.S. Digital Service, *Our mission*, <https://www.usds.gov/mission> (last visited May 28, 2025). On January 20, 2025, President Trump issued an executive order renaming the United States Digital Service as the "United States DOGE Service (USDS)," with "DOGE" standing for "Department of Government Efficiency."

¹ The American Civil Liberties Union Foundation is a 501(c)(3) organization that provides legal representation free of charge to individuals and organizations in civil rights and civil liberties cases, and educates the public about civil rights and civil liberties issues across the country. The American Civil Liberties Union is a separate non-profit, 501(c)(4) membership organization that educates the public about the civil liberties implications of pending and proposed state and federal legislation, provides analysis of pending and proposed legislation, directly lobbies legislators, and mobilizes its members to lobby their legislators.



White House, *Establishing and Implementing the President’s “Department of Government Efficiency”* (Jan. 20, 2025), <https://www.whitehouse.gov/presidential-actions/2025/01/establishing-and-implementing-the-presidents-department-of-government-efficiency/>. Within the United States DOGE Service, President Trump established a temporary organization, “the U.S. DOGE Service Temporary Organization,” pursuant to 5 U.S.C. § 3161. *Id.* For purposes of this Request, these entities are collectively referred to as “USDS.”

On March 25, 2025, President Trump issued an executive order directing, among other things, “the Department of Homeland Security in coordination with the DOGE Administrator” to review state voter registration lists “alongside Federal immigration databases” and for the Commissioner of Social Security to take action “to make available the Social Security Number Verification Service, the Death Master File, and any other Federal databases containing relevant information.” *See* Exec. Order No. 14,248 (Mar. 25, 2025).

On April 22, 2025, DHS announced that, in partnership with “USCIS and the Department of Government Efficiency (DOGE),” it had conducted “a comprehensive optimization of the Systematic Alien Verification for Entitlements (SAVE) database to ensure a single, reliable source for verifying non-citizen status nationwide.” U.S. Dep’t of Homeland Security, DHS, USCIS, DOGE Overhaul Systematic Alien Verification for Entitlements Database (Apr. 22, 2025), <https://www.dhs.gov/news/2025/04/22/dhs-uscis-doge-overhaul-systematic-alien-verification-entitlements-database>.

On May 22, 2025, USCIS issued a press release stating that “U.S. Citizenship and Immigration Services updated the Systematic Alien Verification for Entitlements (SAVE) program to ensure a single, reliable source for verifying immigration status and U.S. citizenship nationwide. State and local authorities can input Social Security numbers to help verify U.S. citizenship and prevent aliens from voting in American elections.” U.S. Citizenship & Immigration Servs., USCIS Deploys Common Sense Tools to Verify Voters (May 22, 2025), <https://www.uscis.gov/newsroom/news-releases/uscis-deploys-common-sense-tools-to-verify-voters>. Reporting has indicated that, USDS, DHS, USCIS, and other agencies made use of existing government data sources to modify the SAVE database to combine information about a person’s immigration status, death records, and other personally identifiable information, and potentially other federal databases, for use by the states related to voter list



maintenance.² This reporting and accompanying statements by state and federal officials have indicated that USDS, DHS, USCIS, and the Social Security Administration all contributed to the changes to SAVE database and potentially other federal databases.³

Because many existing federal records are protected by federal laws and regulations, including the Privacy Act, the Health Information Portability and Accountability Act (HIPAA) and the HIPAA Privacy Rule, the E-Government Act of 2002, including the Federal Information Security Management Act and the Confidential Information Protection and Statistical Efficiency Act, taxpayer privacy laws including 26 U.S.C § 6103, and other provisions, serious concerns have arisen about their use. These reported database changes do not appear to have been accompanied by any “update to the ‘system of records notice’ (usually known as a SORN) that governs federal agency records on individuals under the Privacy Act of 1974, and an opportunity for comment.” Justin Levitt, USCIS updates SAVE immigration database to be queried with Social Security numbers, Election Law Blog (May 26, 2025), <https://electionlawblog.org/?p=150026>.

Requesters seek the below requested records to provide the American public with information concerning the use of their data that has been collected by the federal government for multiple different purposes and the manner in which such information is being shared and used by state or local officials or others.

² Madison Remrey, Louisiana becomes first state to use DOGE voter maintenance database, KPLC (May 21, 2025), <https://www.kplctv.com/2025/05/21/louisiana-becomes-first-state-use-doge-voter-maintenance-database/>.

³ *Id.* (Louisiana Secretary of State met with “White House staff, DOGE, U.S. Citizenship and Immigration Services, and the Social Security Administration to offer feedback on the new voter maintenance database.”); *see also* @Louisiana_sos, X (May 23, 2025 at 9:45am), https://x.com/louisiana_sos/status/1925911062727061970?s=46 (Louisiana Secretary of State announcing that “Louisiana is the first state to use the new @DOGE voter list maintenance database!”); @Louisiana_sos, X (May 23, 2025 at 9:46am), (Louisiana Secretary of State thanking @realDonaldTrump, @DHSgov, @USCIS, @SocialSecurity, and @DOGE for working quickly to make this vital information available in a cost-free, easy-to-use format.”); @DOGE, X (May 23, 2025), <https://x.com/doge/status/1925993168652112308?s=46> (DOGE posting: “Great job by @Louisiana_sos, using the new (and free) federal SAVE database to ensure voter integrity.”).



II. Requested Records

We seek the release of records for the period beginning at noon Eastern Standard Time on January 20, 2025—including but not limited to written communications (including but not limited to messages sent via email, SMS message, iMessage, Slack, Microsoft Teams, WhatsApp, Signal, or other platforms) and memoranda—concerning or referencing:

- (1) Any changes made to the SAVE database since January 20, 2025, including but not limited to the addition of any categories of information, the ability to query the database by anything other than an Alien number, and the ability to query the database for more than one record at a time;
- (2) Any federal agencies that were authorized or permitted to access or use data maintained by the federal government to make changes to the SAVE database;
- (3) Any specific federal employees or contractors who were authorized or permitted to access or use data maintained by the federal government to make changes to the SAVE database;
- (4) Any steps taken to comply with Section 2 of Executive Order No. 14,248 (Mar. 25, 2025);
- (5) Any activity related to the updates described in USCIS Press Release: U.S. Citizenship & Immigration Servs., USCIS Deploys Common Sense Tools to Verify Voters (May 22, 2025), <https://www.uscis.gov/newsroom/news-releases/uscis-deploys-common-sense-tools-to-verify-voters>;
- (6) Any communications with other federal agencies regarding the compilation of data that can be used for voter roll list maintenance;
- (7) Any contact with an official of a state government, including but not limited to Florida, Iowa, Louisiana, Mississippi, Ohio, and Texas, regarding any data that can be used for voter roll list maintenance or is otherwise related to voter roll list maintenance;
- (8) Any communications with members or representatives of the Election Integrity Network, including but not limited to Cleta Mitchell.

With respect to the form of production, *see* 5 U.S.C. § 552(a)(3)(B), we request that responsive electronic records be provided electronically in their native file format, to



the extent possible. Alternatively, we request that the records be provided electronically in a text-searchable, static-image format (PDF), in the best image quality in the agency's possession, and that the records be provided in separate, Bates-stamped files.

III. Application for Expedited Processing

We request expedited processing pursuant to 5 U.S.C. § 552(a)(6)(E) and the Agency's regulations. There is a "compelling need" for these records, as defined in the statute, because the information requested is "urgen[tly]" needed by an organization primarily engaged in disseminating information "to inform the public concerning actual or alleged Federal Government activity." 5 U.S.C. § 552(a)(6)(E)(v)(II).

1. *Ms. Bower, Mr. Wittes, and the ACLU are primarily engaged in disseminating information in order to inform the public about actual or alleged government activity.*

Anna Bower is a Senior Editor at *Lawfare*,⁴ a non-profit, non-partisan media organization dedicated to legal news and analysis. At *Lawfare*, Ms. Bower's reporting focuses on issues related to democracy and the rule of law, election law, and election security. In 2023, for example, she penned an exhaustive account of the 2021 voting data breach in Coffee County, Georgia.⁵ Later, in a series of follow-up articles, she published the Georgia Bureau of Investigation's report on the breach,⁶ critiqued the report's glaring omissions,⁷ and published additional documents acquired by the GBI during its investigation.⁸

⁴ <https://www.lawfaremedia.org/contributors/abower>

⁵ Anna Bower, *What the Heck Happened in Coffee County, Georgia?*, *Lawfare* (Aug. 15, 2023), <https://www.lawfaremedia.org/article/what-the-heck-happened-in-coffee-county-georgia>.

⁶ Anna Bower, *You Can Now Read the GBI's Coffee Co. Report in Full*, *Lawfare* (Nov. 3, 2023), <https://www.lawfaremedia.org/article/you-can-now-read-the-gbi-s-coffee-co.-report-in-full>.

⁷ Anna Bower, *What the GBI Missed in Coffee County*, *Lawfare* (Nov. 28, 2023), <https://www.lawfaremedia.org/article/what-the-gbi-missed-in-coffee-county>.

⁸ Anna Bower, *A New Player in Coffee County*, *Lawfare* (Dec. 2, 2023), <https://www.lawfaremedia.org/article/what-else-the-gbi-missed-in-coffee-county>.



Ahead of the 2024 presidential election, Ms. Bower produced extensive reporting and legal analysis on election-related matters. For *Lawfare*⁹ and the *Atlantic*,¹⁰ she analyzed the Georgia State Election Board’s controversial rule changes related to election “certification,” or the process by which county elections officials aggregate election returns and attest to the accuracy of the results. With *Lawfare*’s Benjamin Wittes, she profiled David Clements,¹¹ a former professor who traveled from town to town across the country, trying to persuade local election officials to withhold certification of voting machines or election results.

In addition to her work on election law and election security issues, Ms. Bower reports on the United States DOGE Service and the avalanche of civil litigation spawned by its efforts to re-shape the federal government.¹² Her work in this area is focused on answering unresolved questions about DOGE’s organizational structure,¹³ chain of command, and access to sensitive systems or data.¹⁴ In “On DOGE, Directives, and DOJ,” she reported on DOGE’s efforts to terminate the Justice Department’s contracts with the Acacia Center for Justice, which provides legal services for non-citizens and unaccompanied minor children.¹⁵ More recently, she chronicled the government’s inconsistent public statements¹⁶ about who really runs DOGE.¹⁷

⁹ See, e.g., Anna Bower, *Will Georgia's New Election Rules Allow Trump to Steal the Presidency?*, *Lawfare* (Sept. 23, 2024), <https://www.lawfaremedia.org/article/will-georgia-s-new-election-rules-allow-trump-to-steal-the-presidency>.

¹⁰ See, e.g., Anna Bower, *Georgia's Election-Law Problems Aren't Legal Ones*, *The Atlantic* (Oct. 3, 2024), <https://www.theatlantic.com/ideas/archive/2024/10/georgia-election-law-legal/680118/>.

¹¹ Anna Bower & Benjamin Wittes, *David Clements: The Evangelist of Election Refusal*, *Lawfare* (Oct. 31, 2024), <https://www.lawfaremedia.org/article/david-clements--the-evangelist-of-election-refusal>.

¹² Anna Bower, *Advocacy Groups File Four Lawsuits Against Musk-Led DOGE*, *Lawfare* (Jan. 20, 2025), <https://www.lawfaremedia.org/article/advocacy-groups-file-four-lawsuits-against-musk-led-doge>.

¹³ Anna Bower, *DOGE-ing Questions in Federal Court*, *Lawfare* (Feb. 7, 2025), <https://www.lawfaremedia.org/article/doge-ing-questions-in-federal-court>.

¹⁴ *Id.*

¹⁵ Anna Bower, *On DOGE, Directives, and DOJ*, *Lawfare* (Apr. 27, 2025), <https://www.lawfaremedia.org/article/on-doge--directives--and-doj>.

¹⁶ Anna Bower, *The WITAOD Chronicles*, *Lawfare* (May 29, 2025), <https://www.lawfaremedia.org/article/the-witaod-chronicles>.

¹⁷ Anna Bower, *Who Is Running the U.S. DOGE Service?*, *Lawfare* (Feb. 25, 2025), <https://www.lawfaremedia.org/article/who-is-running-the-u.s.-doge-service>.



Benjamin Wittes is editor in chief of *Lawfare*, which he co-founded in 2010. In his own writing, he covers a range of issues related to the intersection of law and national security. In particular, he has written extensively about constitutional and separation of powers issues in connection with a range of President Trump's executive orders and administrative actions in 2025.

In his editorial capacity, he supervises all of Lawfare's editorial policies and projects, including all of its work on DOGE, data privacy, elections and voting. In particular, he was the principal editor of Anna Bower's article on her search for the administrator of DOGE.

"Courts regularly find that reporters and members of the media qualify" for expedited processing under 5 U.S.C. § 552(a)(6)(E). *Landmark Legal Found. v. E.P.A.*, 910 F. Supp. 2d 270, 275 (D.D.C. 2012); *see also, e.g., Progress v. Consumer Fin. Prot. Bureau*, No. CV 17-686 (CKK), 2017 WL 1750263, at *4 (D.D.C. May 4, 2017) (noting that "courts in this Circuit and elsewhere have routinely held that media organizations and newspapers qualify under this category"); *Heritage Found. v. U.S. Env't Prot. Agency*, No. CV 23-748 (JEB), 2023 WL 2954418, at *3 (D.D.C. Apr. 14, 2023) (explaining that writer for Daily Signal, a news outlet, is primarily engaged in disseminating information).

Likewise, the ACLU is "primarily engaged in disseminating information" within the meaning of the statute and regulations. 5 U.S.C. § 552(a)(6)(E)(v)(II). Inherent to the ACLU's core mission and activities is the dissemination of information to the public, and obtaining information about government activities, analyzing that information, and widely publishing and disseminating it to the press and public are critical and substantial components of the ACLU's work.¹⁸

To facilitate its goal of educating the public about civil liberties issues and government policies that implicate civil rights and liberties, the ACLU routinely publishes information about government conduct and civil liberties issues to millions of people through many media, including but not limited to: a magazine disseminated to more than one million donors; social media accounts with more than 6.6 million followers; an email distribution list with 4.8 million subscribers; a daily blog featuring

¹⁸ Courts have found that organizations with similar missions that engage in information-dissemination activities similar to the ACLU are "primarily engaged in disseminating information." *See, e.g., Leadership Conference on Civil Rights v. Gonzales*, 404 F. Supp. 2d 246, 260 (D.D.C. 2005); *Elec. Privacy Info. Ctr. v. DOD*, 241 F. Supp. 2d 5, 11 (D.D.C. 2003).



original editorial content¹⁹; videos, podcasts, and other interactive features²⁰; and myriad reports, fact sheets, “know your rights” materials, educational brochures and pamphlets, and thousands of other documents distributed both on the ACLU’s heavily visited website²¹ and in hard copy. Through these media, the ACLU provides the public with educational material, recent news, analyses of relevant congressional or executive branch action, legal developments and case-related documents, government documents obtained through FOIA requests, and more.²²

¹⁹ <https://www.aclu.org/blog>

²⁰ <https://www.aclu.org/multimedia>

²¹ See generally www.aclu.org; see, e.g., ACLU, Bad Trip: Debunking the TSA’s ‘Behavior Detection’ Program (2017), https://www.aclu.org/sites/default/files/field_document/dem17-tsa_detection_report-v02.pdf; Carl Takei, ACLU-Obtained Emails Prove that the Federal Bureau of Prisons Covered Up Its Visit to the CIA’s Torture Site (Nov. 22, 2016), <https://www.aclu.org/blog/speak-freely/aclu-obtained-emails-prove-federal-bureau-prisons-covered-its-visit-cias-torture>; Brett Max Kaufman, Details Abound in Drone ‘Playbook’ – Except for the Ones That Really Matter Most (Aug. 8, 2016), <https://www.aclu.org/blog/speak-freely/details-abound-drone-playbook-except-ones-really-matter-most>; ACLU, Leaving Girls Behind: An Analysis of Washington D.C.’s “Empowering Males of Color” Initiative (2016), <https://www.aclu.org/report/leaving-girls-behind>; Nathan Freed Wessler, ACLU-Obtained Documents Reveal Breadth of Secretive Stingray Use in Florida (Feb. 22, 2015), <https://www.aclu.org/blog/free-future/aclu-obtained-documents-reveal-breadth-secretive-stingray-use-florida>; Nathan Freed Wessler, FBI Documents Reveal New Information on Baltimore Surveillance Flights (Oct. 30, 2015), <https://www.aclu.org/blog/free-future/fbi-documents-reveal-new-information-baltimore-surveillance-flights>; Ashley Gorski, New NSA Documents Shine More Light into Black Box of Executive Order 12333 (Oct. 30, 2014), <https://www.aclu.org/blog/new-nsa-documents-shine-more-light-black-box-executive-order-12333>.

²² See, e.g., *ACLU v. ODNI*—FOIA Lawsuit Seeking Records About Government Surveillance Under the USA Freedom Act, ACLU Case Page, <https://www.aclu.org/cases/aclu-v-odni-foia-lawsuit-seeking-records-about-government-surveillance-under-usa-freedom-act>; *ACLU v. DOJ*—FOIA Lawsuit Seeking Information on Federal Agencies’ Surveillance of Social Media, ACLU Case Page, <https://www.aclu.org/cases/aclu-v-doj-foia-lawsuit-seeking-information-federal-agencies-surveillance-social-media>; *ACLU v. DOJ*—FOIA Case for Records Relating to Targeted Killing Law, Policy, and Casualties, ACLU Case Page, <https://www.aclu.org/cases/aclu-v-doj-foia-case-records-relating-targeted-killing-law-policy-and-casualties>; Executive Order 12,333—FOIA Lawsuit, ACLU Case Page, <https://www.aclu.org/cases/executive-order-12333-foia-lawsuit>; ACLU Motions Requesting Public Access to FISA Court Rulings on Government Surveillance, ACLU Case Page, <https://www.aclu.org/cases/aclu-motions-requesting-public-access-fisa-court-rulings->



These various efforts to disseminate information to the public are not incidental to some distinct primary activity: they reflect and advance the ACLU's core mission and are consistent with the ACLU's largest expenses. Two of the ACLU's largest program services revolve around the dissemination of information to the public. First, the ACLU provides funding to its affiliates across the country to ensure that projects and initiatives that are of particular local and national significance are sufficiently supported to reach the public. Second, the ACLU provides direct education, including through the means described above, to provide its approximately 1 million followers and members of the public with information about a wide range of civil liberties issues.

The ACLU intends to analyze, publish, and/or distribute the information obtained through this FOIA request to the public via the ACLU website and/or other means available to us. The records requested are not sought for commercial use and the Requesters plan to disseminate the information disclosed as a result of this Request to the public at no cost.

2. The records sought are urgently needed to inform the public about actual or alleged government activity.

These records are urgently needed to inform the public about actual or alleged government activity. *See* 5 U.S.C. § 552(a)(6)(E)(v)(II). Specifically, they pertain to whether federal agencies are violating federal laws, regulations, or policies by providing extraordinary access to sensitive information that was gathered for other purposes than it is now being used. Likewise, non-federal government officials have indicated that they are already putting these sensitive federal data to use. Agency activities and the misuse of data held by the federal government are the subject of widespread and intense public controversy and media attention, with multiple new

government-surveillance; *ACLU v. DOJ*—FOIA Lawsuit Demanding OLC Opinion “Common Commercial Service Agreements, ACLU Case Page, <https://www.aclu.org/cases/aclu-v-doj-foia-lawsuit-demanding-olc-opinion-common-commercial-service-agreements>; FOIA Request for Justice Department Policy Memos on GPS Location Tracking, ACLU Case Page, <https://www.aclu.org/cases/foia-request-justice-department-policy-memos-gps-location-tracking>; Florida Stingray FOIA, ACLU Case Page, <https://www.aclu.org/cases/florida-stingray-foia>; Nathan Freed Wessler, *ACLU-Obtained Documents Reveal Breadth of Secretive Stingray Use in Florida*, (Feb. 22, 2015) <https://www.aclu.org/blog/free-future/aclu-obtained-documents-reveal-breadth-secretive-stingray-use-florida?redirect=blog/national-security-technology-and-liberty/aclu-obtained-documents-reveal-breadth-secretive-sting>.



breaking news stories published daily, including about USDS access to sensitive information.²³ USDS access to sensitive data and the March 25, 2025 Executive Order have both been the subject of multiple lawsuits filed since January 20,²⁴ and members of Congress have urgently raised alarms.²⁵ The records sought relate to a matter of widespread and exceptional public and media interest in the access USDS has to sensitive information.

The urgency and importance of this request are enhanced in light of the statements made by those entrusted with some of the most sensitive, personal records at issue in the Request about their cooperation with USDS outside of ordinary processes and chains of command. For example, Leland Dudek, who served as Acting Commissioner of the Social Security Administration during much of the relevant period, has “confess[ed]” that he has “bullied agency executives, shared executive contact

²³ See, e.g., Isaac Stanley-Becker, et al., *Musk’s DOGE Agents Access Sensitive Personnel Data, Alarming Security Officials*, Wash. Post (Feb. 6, 2025), <https://perma.cc/A7W5-7BBP>; *Inside Musk’s Aggressive Incursion Into the Federal Government*, N.Y. Times (Feb. 3, 2025), <https://www.nytimes.com/2025/02/03/us/politics/musk-federal-government.html>; Andrew Duehren, et al., *Elon Musk’s Team Now Has Access to Treasury’s Payments System*, N.Y. Times (Feb. 1, 2025), <https://perma.cc/R9RN-DEFE>; Vittoria Elliott, et al., *A 25-Year-Old With Elon Musk Ties Has Direct Access to the Federal Payment System*, WIRED (Feb. 4, 2025), <https://perma.cc/LB74-HWC9>; Lauren Irwin, *Senate Democrat: DOGE Has ‘Burrowed Into the Private Information of Every American,’* The Hill (Feb. 6, 2025), <https://perma.cc/NPS9-SLDK>; *Musk’s DOGE Granted Access to US Medicare and Medicaid Systems*, Reuters (Feb. 5, 2025), <https://perma.cc/36N8-TPAB>; Vittoria Elliott, *DOGE Will Allow Elon Musk to Surveil the US Government From the Inside*, WIRED (Jan. 24, 2025), <https://www.wired.com/story/doge-elon-musk/>.

²⁴ See, e.g., *Alliance for Retired Americans v. Bessent*, No. 25-313 (D.D.C. filed Feb. 3, 2025); Hurubie Meko, *State Attorneys General to Sue Over Musk’s Access to Government Systems*, N.Y. Times (Feb. 6, 2025), <https://www.nytimes.com/2025/02/06/nyregion/letitia-james-doge-suit.html>; *League of United Latin American Citizens v. Executive Office of the President*, No. 25-cv-0946 (D.D.C. filed Mar. 31, 2025); *League of Women Voters Education Fund v. Trump*, No. 25-cv-955 (D.D.C. filed Apr. 1, 2025).

²⁵ See, e.g., Letter from Sen. Mark R. Warner et al. to Susie Wiles, White House Chief of Staff (Feb. 5, 2025), <https://www.kelly.senate.gov/wp-content/uploads/2025/02/DOGE-Letter.pdf>.



information, and circumvented the chain of command to connect DOGE with the people who get stuff done.”²⁶

This request is time-sensitive and highly important to the public for yet another reason: the revised SAVE database has already been shared with and is in use by states, meaning the use of this sensitive data (and the consequent impact on registered voters) is imminent if not already ongoing.

In spite of the extraordinary public interest in these issues, USDS, DHS, USCIS, and other federal agencies have released little information about what access to sensitive data has been granted and with what protections, if any. Given the extraordinary interest and the lack of public information, there is an urgent need to inform the public about the use of sensitive information held by government agencies. An extraordinary debate about unprecedented activity within federal agencies is happening now, and accurate public information about agency activities is urgently needed to inform that debate. Expedited processing is therefore appropriate under 5 U.S.C. § 552(a)(6)(E) and the Agency’s implementing regulations.

IV. Fee Waiver Request

We also request that any fees associated with responding to this FOIA request be waived pursuant to 5 U.S.C. § 552(a)(4)(A)(iii) and 15 C.F.R. § 4.11(l). Pursuant to 5 U.S.C. § 552(a)(4)(A)(iii) and 15 C.F.R. § 4.11(l), fees should be waived or reduced if disclosure is (1) in the public interest because it is “likely to contribute significantly to public understanding of the operations or activities of the government” and (2) “not primarily in the commercial interest of the requester.” Disclosure in this case meets both of these factors. We also separately request a waiver or reduction of fees on the grounds that Requesters qualify as “representative[s] of the news media” and the records are not sought for commercial use. *See* 5 U.S.C. § 552(a)(4)(A)(ii)(II); 15 C.F.R. § 4.11(d)(1).

²⁶ Letter from Sen. E. Warren to L. Dudek (Mar. 2, 2025), https://www.warren.senate.gov/imo/media/doc/letter_to_ssa_re_doge_data_access.pdf; see also @elonmusk, X (Feb. 19, 2025 at 10:18pm), <https://perma.cc/56BW-MUBB>.



1. *Disclosure is in the public interest as it is likely to contribute significantly to the public's understanding of the operations and activities of government and is not primarily in a commercial interest.*

As discussed above, this Request concerns serious questions surrounding the extraordinary access to sensitive agency records. Little official information is publicly available regarding this topic, so the records sought are certain to contribute significantly to the public's understanding.

We are not filing this Request to further any commercial interests, but to provide information to the public. As described above, any information disclosed as a result of this FOIA Request will be available to the public at no cost. Thus, a fee waiver would fulfill Congress's legislative intent in amending FOIA. *See Judicial Watch, Inc. v. Rossotti*, 326 F.3d 1309, 1312 (D.C. Cir. 2003) ("Congress amended FOIA to ensure that it be liberally construed in favor of waivers for noncommercial requesters." (quotation marks omitted)).

2. *Ms. Bower, Mr. Wittes, and the ACLU are representatives of the news media and the records are not sought for commercial use.*

As journalists, Ms. Bower and Mr. Wittes qualify as "representative[s] of the news media"; likewise, the ACLU qualifies as "representative[s] of the news media." 5 U.S.C. § 552(a)(4)(A)(ii)(II). And the records are not sought for commercial use. *Id.* Each of the Requesters meet the statutory and regulatory definitions of a "representative of the news media" because they "gather[] information of potential interest to a segment of the public, uses [their] editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience." 5 U.S.C. § 552(a)(4)(A)(ii)(III); *see also Nat'l Sec. Archive v. Dep't of Defense*, 880 F.2d 1381, 1387 (D.C. Cir. 1989) (finding that an organization that gathers information, exercises editorial discretion in selecting and organizing documents, "devises indices and finding aids," and "distributes the resulting work to the public" is a "representative of the news media" for purposes of the FOIA); *Serv. Women's Action Network v. Dep't of Defense*, 888 F. Supp. 2d 282 (D. Conn. 2012) (requesters were representatives of the news media and thus qualified for fee waivers for FOIA requests to the Department of Defense and Department of Veterans Affairs).

Ms. Bower and Mr. Wittes are plainly "representative[s] of the news media" for the same reasons they are "primarily engaged in the dissemination of information." Furthermore, courts have routinely found journalists and other individuals who gather and disseminate information to be "representatives of the news media." *See*,



e.g., *Lieberman v. U.S. Dep't of Transportation*, 227 F. Supp. 3d 1, 11 (D.D.C. 2016) (holding that blog contributor was a “representative of the news media” entitled to FOIA fee waiver); *Long v. Dep't of Homeland Sec.*, 113 F. Supp. 3d 100, 106 (D.D.C. 2015) (determining professor who publishes reports through research institute was a “representative of the news media” and entitled to waiver). Similarly, the ACLU is a “representative of the news media” since it regularly “gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience.” *ACLU of Wash. v. Dep't of Justice*, No. C09–0642RSL, 2011 WL 887731, at *10 (W.D. Wash. Mar. 10, 2011) (finding that the ACLU of Washington is an entity that “gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience”); *ACLU v. Dep't of Justice*, 321 F. Supp. 2d 24, 30 n.5 (D.D.C. 2004). As was true in those instances, each of the Requesters meet the requirements for a fee waiver here.

Furthermore, courts have routinely found other organizations whose mission, function, publishing, and public education activities are similar in kind to the ACLU's to be “representatives of the news media.” *See, e.g.*, *Cause of Action v. IRS*, 125 F. Supp. 3d 145 (D.C. Cir. 2015); *Elec. Privacy Info. Ctr.*, 241 F. Supp. 2d at 10–15 (finding non-profit public interest group that disseminated an electronic newsletter and published books was a “representative of the news media” for purposes of the FOIA); *Nat'l Sec. Archive*, 880 F.2d at 1387; *Judicial Watch, Inc. v. Dep't of Justice*, 133 F. Supp. 2d 52, 53-54 (D.D.C. 2000) (finding Judicial Watch, self-described as a “public interest law firm,” a news media requester).

“[T]he D.C. Circuit has made clear that news-media entities that are seeking information in service of their basic function—disseminating information to the public—are eligible for the fee waiver because public dissemination is not a ‘commercial use’ of the requested records.” *Lieberman*, 227 F. Supp. 3d at 14. As such, in addition to being entitled to a fee waiver because disclosure is in the public interest, the Requesters are also entitled to a fee waiver as representatives of the news media.

* * *

Pursuant to applicable statutes and regulations, we expect a determination regarding expedited processing within 10 days. *See* 5 U.S.C. § 552(a)(6)(E)(ii).

If the Request is denied in whole or in part, we ask that you justify all deletions by reference to specific exemptions to FOIA. We expect the release of all segregable



portions of otherwise exempt material. We reserve the right to appeal a decision to withhold any information or deny a waiver of fees.

Thank you for your prompt attention to this matter.

Please call me at (212) 549-2500, (646) 905-8881, or email me at tlee@aclu.org if you have any questions or wish to obtain further information about the nature of the records in which we are interested. Please furnish the applicable records via email (tlee@aclu.org).

If the records are not in an electronic format, and must be sent via U.S. Mail, please furnish the applicable records to:

Theresa J. Lee
American Civil Liberties Union Foundation
125 Broad Street, 18th Floor
New York, New York 10004

I affirm that the information provided supporting the request for expedited processing is true and correct to the best of my knowledge and belief. *See* 5 U.S.C. § 552(a)(6)(E)(vi); 15 C.F.R. § 4.6(f)(3).

Sincerely,

Theresa J. Lee
Megan C. Keenan
Sophia Lin Lakin
American Civil Liberties Union Foundation
125 Broad Street, 18th Floor
New York, New York 10004
(212) 549-2500
tlee@aclu.org

EXHIBIT B



Theresa J. Lee
Senior Staff Attorney
Voting Rights Project
ACLU National Legal Department

FOIA Request / Expedited Processing Requested

June 23, 2025

Electronically submitted via FOIAXpress Public Access Link

Social Security Administration
Office of Privacy and Disclosure
G-401 WHR
6401 Security Boulevard
Baltimore, Maryland 21235

Re: Request Under the Freedom of Information Act (Expedited Processing & Fee Waiver/Limitation Requested)

To Whom It May Concern:

We submit this Freedom of Information Act (“FOIA”) request (the “Request”) for records pertaining to access to sensitive agency records and use of data across federal agencies with respect to information purported to be used for voter list maintenance by the Social Security Administration behalf of the American Civil Liberties Union, the American Civil Liberties Union Foundation (together, the “ACLU”)¹, and journalists Anna Bower and Benjamin Wittes (collectively, the “Requesters”).

I. Background

In August 2014, President Obama founded the U.S. Digital Service within the Office of Management and Budget, with the goal of “br[inging] together the best engineering, design, and government talent to change our government’s approach to technology.” U.S. Digital Service, *Our mission*, <https://www.usds.gov/mission> (last visited May 28, 2025). On January 20, 2025, President Trump issued an executive order renaming the United States Digital Service as the “United States DOGE

¹ The American Civil Liberties Union Foundation is a 501(c)(3) organization that provides legal representation free of charge to individuals and organizations in civil rights and civil liberties cases, and educates the public about civil rights and civil liberties issues across the country. The American Civil Liberties Union is a separate non-profit, 501(c)(4) membership organization that educates the public about the civil liberties implications of pending and proposed state and federal legislation, provides analysis of pending and proposed legislation, directly lobbies legislators, and mobilizes its members to lobby their legislators.



Service (USDS),” with “DOGE” standing for “Department of Government Efficiency.” White House, *Establishing and Implementing the President’s “Department of Government Efficiency”* (Jan. 20, 2025), <https://www.whitehouse.gov/presidential-actions/2025/01/establishing-and-implementing-the-presidents-department-of-government-efficiency/>. Within the United States DOGE Service, President Trump established a temporary organization, “the U.S. DOGE Service Temporary Organization,” pursuant to 5 U.S.C. § 3161. *Id.* For purposes of this Request, these entities are collectively referred to as “USDS.”

On March 25, 2025, President Trump issued an executive order directing, among other things, “the Department of Homeland Security in coordination with the DOGE Administrator” to review state voter registration lists “alongside Federal immigration databases” and for the Commissioner of Social Security to take action “to make available the Social Security Number Verification Service, the Death Master File, and any other Federal databases containing relevant information.” *See* Exec. Order No. 14,248 (Mar. 25, 2025).

On April 22, 2025, the Department of Homeland Security announced that, in partnership with “USCIS and the Department of Government Efficiency (DOGE),” it had conducted “a comprehensive optimization of the Systematic Alien Verification for Entitlements (SAVE) database to ensure a single, reliable source for verifying non-citizen status nationwide.” U.S. Dep’t of Homeland Security, DHS, USCIS, DOGE Overhaul Systematic Alien Verification for Entitlements Database (Apr. 22, 2025), <https://www.dhs.gov/news/2025/04/22/dhs-uscis-doge-overhaul-systematic-alien-verification-entitlements-database>.

On May 22, 2025, USCIS issued a press release stating that “U.S. Citizenship and Immigration Services updated the Systematic Alien Verification for Entitlements (SAVE) program to ensure a single, reliable source for verifying immigration status and U.S. citizenship nationwide. State and local authorities can input Social Security numbers to help verify U.S. citizenship and prevent aliens from voting in American elections.” U.S. Citizenship & Immigration Servs., USCIS Deploys Common Sense Tools to Verify Voters (May 22, 2025), <https://www.uscis.gov/newsroom/news-releases/uscis-deploys-common-sense-tools-to-verify-voters>. Reporting has indicated that, USDS and other agencies made use of existing government data sources to modify the SAVE database to combine information about a person’s immigration status, death records, and other personally identifiable information, and potentially



other federal databases, for use by the states related to voter list maintenance.² This reporting and accompanying statements by state and federal officials have indicated that USDS, DHS, and the Social Security Administration all contributed to the changes to SAVE database and potentially other federal databases.³

Because many existing federal records are protected by federal laws and regulations, including the Privacy Act, the Health Information Portability and Accountability Act (HIPAA) and the HIPAA Privacy Rule, the E-Government Act of 2002, including the Federal Information Security Management Act and the Confidential Information Protection and Statistical Efficiency Act, taxpayer privacy laws including 26 U.S.C § 6103, and other provisions, serious concerns have arisen about their use. These reported database changes do not appear to have been accompanied by any “update to the ‘system of records notice’ (usually known as a SORN) that governs federal agency records on individuals under the Privacy Act of 1974, and an opportunity for comment.” Justin Levitt, USCIS updates SAVE immigration database to be queried with Social Security numbers, Election Law Blog (May 26, 2025), <https://electionlawblog.org/?p=150026>.

Requesters seek the below requested records to provide the American public with information concerning the use of their data that has been collected by the federal government for multiple different purposes and the manner in which such information is being shared and used by state or local officials or others.

² Madison Remrey, Louisiana becomes first state to use DOGE voter maintenance database, KPLC (May 21, 2025), <https://www.kplctv.com/2025/05/21/louisiana-becomes-first-state-use-doge-voter-maintenance-database/>.

³ *Id.* (Louisiana Secretary of State met with “White House staff, DOGE, U.S. Citizenship and Immigration Services, and the Social Security Administration to offer feedback on the new voter maintenance database.”); *see also* @Louisiana_sos, X (May 23, 2025 at 9:45am), https://x.com/louisiana_sos/status/1925911062727061970?s=46 (Louisiana Secretary of State announcing that “Louisiana is the first state to use the new @DOGE voter list maintenance database!”); @Louisiana_sos, X (May 23, 2025 at 9:46am), (Louisiana Secretary of State thanking @realDonaldTrump, @DHSgov, @USCIS, @SocialSecurity, and @DOGE for working quickly to make this vital information available in a cost-free, easy-to-use format.”); @DOGE, X (May 23, 2025), <https://x.com/doge/status/1925993168652112308?s=46> (DOGE posting: “Great job by @Louisiana_sos, using the new (and free) federal SAVE database to ensure voter integrity.”).



II. Requested Records

We seek the release of records for the period beginning at noon Eastern Standard Time on January 20, 2025—including but not limited to written communications (including but not limited to messages sent via email, SMS message, iMessage, Slack, Microsoft Teams, WhatsApp, Signal, or other platforms) and memoranda—concerning or referencing:

- (1) Any federal agencies other than the SSA that were authorized or permitted to access or use data maintained by the SSA to make updates to the SAVE database or otherwise in relation to voter roll list maintenance;
- (2) Any specific federal employees or contractors who were authorized or permitted to access or use data maintained by the SSA to make updates to the SAVE database or otherwise in relation to voter roll list maintenance;
- (3) Any steps taken to comply with Section 3 of Executive Order No. 14,248 (Mar. 25, 2025).
- (4) Any changes made to the SAVE database since January 20, 2025, including combining or matching data maintained by the SSA with that maintained in the SAVE database;
- (5) Any activity related to the updates described in USCIS Press Release: U.S. Citizenship & Immigration Servs., USCIS Deploys Common Sense Tools to Verify Voters (May 22, 2025), <https://www.uscis.gov/newsroom/news-releases/uscis-deploys-common-sense-tools-to-verify-voters>;
- (6) Any communications with other federal agencies regarding the compilation of data that can be used for voter roll list maintenance;
- (7) Any contact with an official of a state government, including but not limited to Florida, Iowa, Louisiana, Mississippi, Ohio, and Texas, regarding any data that can be used for voter roll list maintenance or is otherwise related to voter roll list maintenance;
- (8) Any communications with members or representatives of the Election Integrity Network, including but not limited to Cleta Mitchell.

With respect to the form of production, *see* 5 U.S.C. § 552(a)(3)(B), we request that responsive electronic records be provided electronically in their native file format, to



the extent possible. Alternatively, we request that the records be provided electronically in a text-searchable, static-image format (PDF), in the best image quality in the agency's possession, and that the records be provided in separate, Bates-stamped files.

III. Application for Expedited Processing

We request expedited processing pursuant to 5 U.S.C. § 552(a)(6)(E) and the Agency's regulations. There is a "compelling need" for these records, as defined in the statute, because the information requested is "urgen[tly]" needed by an organization primarily engaged in disseminating information "to inform the public concerning actual or alleged Federal Government activity." 5 U.S.C. § 552(a)(6)(E)(v)(II).

1. *Ms. Bower, Mr. Wittes, and the ACLU are primarily engaged in disseminating information in order to inform the public about actual or alleged government activity.*

Anna Bower is a Senior Editor at *Lawfare*,⁴ a non-profit, non-partisan media organization dedicated to legal news and analysis. At *Lawfare*, Ms. Bower's reporting focuses on issues related to democracy and the rule of law, election law, and election security. In 2023, for example, she penned an exhaustive account of the 2021 voting data breach in Coffee County, Georgia.⁵ Later, in a series of follow-up articles, she published the Georgia Bureau of Investigation's report on the breach,⁶ critiqued the report's glaring omissions,⁷ and published additional documents acquired by the GBI during its investigation.⁸

⁴ <https://www.lawfaremedia.org/contributors/abower>

⁵ Anna Bower, *What the Heck Happened in Coffee County, Georgia?*, *Lawfare* (Aug. 15, 2023), <https://www.lawfaremedia.org/article/what-the-heck-happened-in-coffee-county-georgia>.

⁶ Anna Bower, *You Can Now Read the GBI's Coffee Co. Report in Full*, *Lawfare* (Nov. 3, 2023), <https://www.lawfaremedia.org/article/you-can-now-read-the-gbi-s-coffee-co.-report-in-full>.

⁷ Anna Bower, *What the GBI Missed in Coffee County*, *Lawfare* (Nov. 28, 2023), <https://www.lawfaremedia.org/article/what-the-gbi-missed-in-coffee-county>.

⁸ Anna Bower, *A New Player in Coffee County*, *Lawfare* (Dec. 2, 2023), <https://www.lawfaremedia.org/article/what-else-the-gbi-missed-in-coffee-county>.



Ahead of the 2024 presidential election, Ms. Bower produced extensive reporting and legal analysis on election-related matters. For *Lawfare*⁹ and the *Atlantic*,¹⁰ she analyzed the Georgia State Election Board’s controversial rule changes related to election “certification,” or the process by which county elections officials aggregate election returns and attest to the accuracy of the results. With *Lawfare*’s Benjamin Wittes, she profiled David Clements,¹¹ a former professor who traveled from town to town across the country, trying to persuade local election officials to withhold certification of voting machines or election results.

In addition to her work on election law and election security issues, Ms. Bower reports on the United States DOGE Service and the avalanche of civil litigation spawned by its efforts to re-shape the federal government.¹² Her work in this area is focused on answering unresolved questions about DOGE’s organizational structure,¹³ chain of command, and access to sensitive systems or data.¹⁴ In “On DOGE, Directives, and DOJ,” she reported on DOGE’s efforts to terminate the Justice Department’s contracts with the Acacia Center for Justice, which provides legal services for non-citizens and unaccompanied minor children.¹⁵ More recently, she chronicled the government’s inconsistent public statements¹⁶ about who really runs DOGE.¹⁷

⁹ See, e.g., Anna Bower, *Will Georgia's New Election Rules Allow Trump to Steal the Presidency?*, *Lawfare* (Sept. 23, 2024), <https://www.lawfaremedia.org/article/will-georgia-s-new-election-rules-allow-trump-to-steal-the-presidency>.

¹⁰ See, e.g., Anna Bower, *Georgia's Election-Law Problems Aren't Legal Ones*, *The Atlantic* (Oct. 3, 2024), <https://www.theatlantic.com/ideas/archive/2024/10/georgia-election-law-legal/680118/>.

¹¹ Anna Bower & Benjamin Wittes, *David Clements: The Evangelist of Election Refusal*, *Lawfare* (Oct. 31, 2024), <https://www.lawfaremedia.org/article/david-clements--the-evangelist-of-election-refusal>.

¹² Anna Bower, *Advocacy Groups File Four Lawsuits Against Musk-Led DOGE*, *Lawfare* (Jan. 20, 2025), <https://www.lawfaremedia.org/article/advocacy-groups-file-four-lawsuits-against-musk-led-doge>.

¹³ Anna Bower, *DOGE-ing Questions in Federal Court*, *Lawfare* (Feb. 7, 2025), <https://www.lawfaremedia.org/article/doge-ing-questions-in-federal-court>.

¹⁴ *Id.*

¹⁵ Anna Bower, *On DOGE, Directives, and DOJ*, *Lawfare* (Apr. 27, 2025), <https://www.lawfaremedia.org/article/on-doge--directives--and-doj>.

¹⁶ Anna Bower, *The WITAOD Chronicles*, *Lawfare* (May 29, 2025), <https://www.lawfaremedia.org/article/the-witaod-chronicles>.

¹⁷ Anna Bower, *Who Is Running the U.S. DOGE Service?*, *Lawfare* (Feb. 25, 2025), <https://www.lawfaremedia.org/article/who-is-running-the-u.s.-doge-service>.



Benjamin Wittes is editor in chief of *Lawfare*, which he co-founded in 2010. In his own writing, he covers a range of issues related to the intersection of law and national security. In particular, he has written extensively about constitutional and separation of powers issues in connection with a range of President Trump's executive orders and administrative actions in 2025.

In his editorial capacity, he supervises all of Lawfare's editorial policies and projects, including all of its work on DOGE, data privacy, elections and voting. In particular, he was the principal editor of Anna Bower's article on her search for the administrator of DOGE.

"Courts regularly find that reporters and members of the media qualify" for expedited processing under 5 U.S.C. § 552(a)(6)(E). *Landmark Legal Found. v. E.P.A.*, 910 F. Supp. 2d 270, 275 (D.D.C. 2012); *see also, e.g., Progress v. Consumer Fin. Prot. Bureau*, No. CV 17-686 (CKK), 2017 WL 1750263, at *4 (D.D.C. May 4, 2017) (noting that "courts in this Circuit and elsewhere have routinely held that media organizations and newspapers qualify under this category"); *Heritage Found. v. U.S. Env't Prot. Agency*, No. CV 23-748 (JEB), 2023 WL 2954418, at *3 (D.D.C. Apr. 14, 2023) (explaining that writer for Daily Signal, a news outlet, is primarily engaged in disseminating information).

Likewise, the ACLU is "primarily engaged in disseminating information" within the meaning of the statute and regulations. 5 U.S.C. § 552(a)(6)(E)(v)(II). Inherent to the ACLU's core mission and activities is the dissemination of information to the public, and obtaining information about government activities, analyzing that information, and widely publishing and disseminating it to the press and public are critical and substantial components of the ACLU's work.¹⁸

To facilitate its goal of educating the public about civil liberties issues and government policies that implicate civil rights and liberties, the ACLU routinely publishes information about government conduct and civil liberties issues to millions of people through many media, including but not limited to: a magazine disseminated to more than one million donors; social media accounts with more than 6.6 million followers; an email distribution list with 4.8 million subscribers; a daily blog featuring

¹⁸ Courts have found that organizations with similar missions that engage in information-dissemination activities similar to the ACLU are "primarily engaged in disseminating information." *See, e.g., Leadership Conference on Civil Rights v. Gonzales*, 404 F. Supp. 2d 246, 260 (D.D.C. 2005); *Elec. Privacy Info. Ctr. v. DOD*, 241 F. Supp. 2d 5, 11 (D.D.C. 2003).



original editorial content¹⁹; videos, podcasts, and other interactive features²⁰; and myriad reports, fact sheets, “know your rights” materials, educational brochures and pamphlets, and thousands of other documents distributed both on the ACLU’s heavily visited website²¹ and in hard copy. Through these media, the ACLU provides the public with educational material, recent news, analyses of relevant congressional or executive branch action, legal developments and case-related documents, government documents obtained through FOIA requests, and more.²²

¹⁹ <https://www.aclu.org/blog>

²⁰ <https://www.aclu.org/multimedia>

²¹ See generally www.aclu.org; see, e.g., ACLU, Bad Trip: Debunking the TSA’s ‘Behavior Detection’ Program (2017), https://www.aclu.org/sites/default/files/field_document/dem17-tsa_detection_report-v02.pdf; Carl Takei, ACLU-Obtained Emails Prove that the Federal Bureau of Prisons Covered Up Its Visit to the CIA’s Torture Site (Nov. 22, 2016), <https://www.aclu.org/blog/speak-freely/aclu-obtained-emails-prove-federal-bureau-prisons-covered-its-visit-cias-torture>; Brett Max Kaufman, Details Abound in Drone ‘Playbook’ – Except for the Ones That Really Matter Most (Aug. 8, 2016), <https://www.aclu.org/blog/speak-freely/details-abound-drone-playbook-except-ones-really-matter-most>; ACLU, Leaving Girls Behind: An Analysis of Washington D.C.’s “Empowering Males of Color” Initiative (2016), <https://www.aclu.org/report/leaving-girls-behind>; Nathan Freed Wessler, ACLU-Obtained Documents Reveal Breadth of Secretive Stingray Use in Florida (Feb. 22, 2015), <https://www.aclu.org/blog/free-future/aclu-obtained-documents-reveal-breadth-secretive-stingray-use-florida>; Nathan Freed Wessler, FBI Documents Reveal New Information on Baltimore Surveillance Flights (Oct. 30, 2015), <https://www.aclu.org/blog/free-future/fbi-documents-reveal-new-information-baltimore-surveillance-flights>; Ashley Gorski, New NSA Documents Shine More Light into Black Box of Executive Order 12333 (Oct. 30, 2014), <https://www.aclu.org/blog/new-nsa-documents-shine-more-light-black-box-executive-order-12333>.

²² See, e.g., *ACLU v. ODNI*—FOIA Lawsuit Seeking Records About Government Surveillance Under the USA Freedom Act, ACLU Case Page, <https://www.aclu.org/cases/aclu-v-odni-foia-lawsuit-seeking-records-about-government-surveillance-under-usa-freedom-act>; *ACLU v. DOJ*—FOIA Lawsuit Seeking Information on Federal Agencies’ Surveillance of Social Media, ACLU Case Page, <https://www.aclu.org/cases/aclu-v-doj-foia-lawsuit-seeking-information-federal-agencies-surveillance-social-media>; *ACLU v. DOJ*—FOIA Case for Records Relating to Targeted Killing Law, Policy, and Casualties, ACLU Case Page, <https://www.aclu.org/cases/aclu-v-doj-foia-case-records-relating-targeted-killing-law-policy-and-casualties>; Executive Order 12,333—FOIA Lawsuit, ACLU Case Page, <https://www.aclu.org/cases/executive-order-12333-foia-lawsuit>; ACLU Motions Requesting Public Access to FISA Court Rulings on Government Surveillance, ACLU Case Page, <https://www.aclu.org/cases/aclu-motions-requesting-public-access-fisa-court-rulings>.



These various efforts to disseminate information to the public are not incidental to some distinct primary activity: they reflect and advance the ACLU's core mission and are consistent with the ACLU's largest expenses. Two of the ACLU's largest program services revolve around the dissemination of information to the public. First, the ACLU provides funding to its affiliates across the country to ensure that projects and initiatives that are of particular local and national significance are sufficiently supported to reach the public. Second, the ACLU provides direct education, including through the means described above, to provide its approximately 1 million followers and members of the public with information about a wide range of civil liberties issues.

The ACLU intends to analyze, publish, and/or distribute the information obtained through this FOIA request to the public via the ACLU website and/or other means available to us. The records requested are not sought for commercial use and the Requesters plan to disseminate the information disclosed as a result of this Request to the public at no cost.

2. The records sought are urgently needed to inform the public about actual or alleged government activity.

These records are urgently needed to inform the public about actual or alleged government activity. *See* 5 U.S.C. § 552(a)(6)(E)(v)(II). Specifically, they pertain to whether federal agencies are violating federal laws, regulations, or policies by providing extraordinary access to sensitive information that was gathered for other purposes than it is now being used. Likewise, non-federal government officials have indicated that they are already putting these sensitive federal data to use. USDS activities and the misuse of data held by the federal government are the subject of widespread and intense public controversy and media attention, with multiple new

government-surveillance; *ACLU v. DOJ*—FOIA Lawsuit Demanding OLC Opinion “Common Commercial Service Agreements, ACLU Case Page, <https://www.aclu.org/cases/aclu-v-doj-foia-lawsuit-demanding-olc-opinion-common-commercial-service-agreements>; FOIA Request for Justice Department Policy Memos on GPS Location Tracking, ACLU Case Page, <https://www.aclu.org/cases/foia-request-justice-department-policy-memos-gps-location-tracking>; Florida Stingray FOIA, ACLU Case Page, <https://www.aclu.org/cases/florida-stingray-foia>; Nathan Freed Wessler, *ACLU-Obtained Documents Reveal Breadth of Secretive Stingray Use in Florida*, (Feb. 22, 2015) <https://www.aclu.org/blog/free-future/aclu-obtained-documents-reveal-breadth-secretive-stingray-use-florida?redirect=blog/national-security-technology-and-liberty/aclu-obtained-documents-reveal-breadth-secretive-sting>.



breaking news stories published daily, including about USDS access to sensitive information.²³ USDS access to sensitive data and the March 25, 2025 Executive Order have both been the subject of multiple lawsuits filed since January 20,²⁴ and members of Congress have urgently raised alarms.²⁵ The records sought relate to a matter of widespread and exceptional public and media interest in the access USDS has to sensitive information.

The urgency and importance of this request are enhanced in light of the statements made by those entrusted with some of the most sensitive, personal records at issue in the Request about their cooperation with USDS outside of ordinary processes and chains of command. For example, Leland Dudek, who served as Acting Commissioner of the Social Security Administration during much of the relevant period, has “confess[ed]” that he has “bullied agency executives, shared executive contact

²³ See, e.g., Isaac Stanley-Becker, et al., *Musk’s DOGE Agents Access Sensitive Personnel Data, Alarming Security Officials*, Wash. Post (Feb. 6, 2025), <https://perma.cc/A7W5-7BBP>; *Inside Musk’s Aggressive Incursion Into the Federal Government*, N.Y. Times (Feb. 3, 2025), <https://www.nytimes.com/2025/02/03/us/politics/musk-federal-government.html>; Andrew Duehren, et al., *Elon Musk’s Team Now Has Access to Treasury’s Payments System*, N.Y. Times (Feb. 1, 2025), <https://perma.cc/R9RN-DEFE>; Vittoria Elliott, et al., *A 25-Year-Old With Elon Musk Ties Has Direct Access to the Federal Payment System*, WIRED (Feb. 4, 2025), <https://perma.cc/LB74-HWC9>; Lauren Irwin, *Senate Democrat: DOGE Has ‘Burrowed Into the Private Information of Every American,’* The Hill (Feb. 6, 2025), <https://perma.cc/NPS9-SLDK>; *Musk’s DOGE Granted Access to US Medicare and Medicaid Systems*, Reuters (Feb. 5, 2025), <https://perma.cc/36N8-TPAB>; Vittoria Elliott, *DOGE Will Allow Elon Musk to Surveil the US Government From the Inside*, WIRED (Jan. 24, 2025), <https://www.wired.com/story/doge-elon-musk/>.

²⁴ See, e.g., *Alliance for Retired Americans v. Bessent*, No. 25-313 (D.D.C. filed Feb. 3, 2025); Hurubie Meko, *State Attorneys General to Sue Over Musk’s Access to Government Systems*, N.Y. Times (Feb. 6, 2025), <https://www.nytimes.com/2025/02/06/nyregion/letitia-james-doge-suit.html>; *League of United Latin American Citizens v. Executive Office of the President*, No. 25-cv-0946 (D.D.C. filed Mar. 31, 2025); *League of Women Voters Education Fund v. Trump*, No. 25-cv-955 (D.D.C. filed Apr. 1, 2025).

²⁵ See, e.g., Letter from Sen. Mark R. Warner et al. to Susie Wiles, White House Chief of Staff (Feb. 5, 2025), <https://www.kelly.senate.gov/wp-content/uploads/2025/02/DOGE-Letter.pdf>.



information, and circumvented the chain of command to connect DOGE with the people who get stuff done.”²⁶

This request is time-sensitive and highly important to the public for yet another reason: the revised SAVE database has already been shared with and is in use by states, meaning the use of this sensitive data (and the consequent impact on registered voters) is imminent if not already ongoing.

In spite of the extraordinary public interest in the activities of USDS, USDS and other federal agencies have released little information about what access to sensitive data has been granted and with what protections, if any. Given the extraordinary interest and the lack of public information, there is an urgent need to inform the public about the use of sensitive information held by government agencies. An extraordinary debate about unprecedented activity within federal agencies is happening now, and accurate public information about agency activities is urgently needed to inform that debate. Expedited processing is therefore appropriate under 5 U.S.C. § 552(a)(6)(E) and the Agency’s implementing regulations.

IV. Fee Waiver Request

We also request that any fees associated with responding to this FOIA request be waived pursuant to 5 U.S.C. § 552(a)(4)(A)(iii) and 15 C.F.R. § 4.11(l). Pursuant to 5 U.S.C. § 552(a)(4)(A)(iii) and 15 C.F.R. § 4.11(l), fees should be waived or reduced if disclosure is (1) in the public interest because it is “likely to contribute significantly to public understanding of the operations or activities of the government” and (2) “not primarily in the commercial interest of the requester.” Disclosure in this case meets both of these factors. We also separately request a waiver or reduction of fees on the grounds that Requesters qualify as “representative[s] of the news media” and the records are not sought for commercial use. *See* 5 U.S.C. § 552(a)(4)(A)(ii)(II); 15 C.F.R. § 4.11(d)(1).

²⁶ Letter from Sen. E. Warren to L. Dudek (Mar. 2, 2025), https://www.warren.senate.gov/imo/media/doc/letter_to_ssa_re_doge_data_access.pdf; see also @elonmusk, X (Feb. 19, 2025 at 10:18pm), <https://perma.cc/56BW-MUBB>.



1. *Disclosure is in the public interest as it is likely to contribute significantly to the public's understanding of the operations and activities of government and is not primarily in a commercial interest.*

As discussed above, this Request concerns serious questions surrounding the extraordinary access to sensitive agency records. Little official information is publicly available regarding this topic, so the records sought are certain to contribute significantly to the public's understanding.

We are not filing this Request to further any commercial interests, but to provide information to the public. As described above, any information disclosed as a result of this FOIA Request will be available to the public at no cost. Thus, a fee waiver would fulfill Congress's legislative intent in amending FOIA. *See Judicial Watch, Inc. v. Rossotti*, 326 F.3d 1309, 1312 (D.C. Cir. 2003) ("Congress amended FOIA to ensure that it be liberally construed in favor of waivers for noncommercial requesters." (quotation marks omitted)).

2. *Ms. Bower, Mr. Wittes, and the ACLU are representatives of the news media and the records are not sought for commercial use.*

As journalists, Ms. Bower and Mr. Wittes qualify as "representative[s] of the news media"; likewise, the ACLU qualifies as "representative[s] of the news media." 5 U.S.C. § 552(a)(4)(A)(ii)(II). And the records are not sought for commercial use. *Id.* Each of the Requesters meet the statutory and regulatory definitions of a "representative of the news media" because they "gather[] information of potential interest to a segment of the public, uses [their] editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience." 5 U.S.C. § 552(a)(4)(A)(ii)(III); *see also Nat'l Sec. Archive v. Dep't of Defense*, 880 F.2d 1381, 1387 (D.C. Cir. 1989) (finding that an organization that gathers information, exercises editorial discretion in selecting and organizing documents, "devises indices and finding aids," and "distributes the resulting work to the public" is a "representative of the news media" for purposes of the FOIA); *Serv. Women's Action Network v. Dep't of Defense*, 888 F. Supp. 2d 282 (D. Conn. 2012) (requesters were representatives of the news media and thus qualified for fee waivers for FOIA requests to the Department of Defense and Department of Veterans Affairs).

Ms. Bower and Mr. Wittes are plainly "representative[s] of the news media" for the same reasons they are "primarily engaged in the dissemination of information." Furthermore, courts have routinely found journalists and other individuals who gather and disseminate information to be "representatives of the news media." *See*,



e.g., *Lieberman v. U.S. Dep't of Transportation*, 227 F. Supp. 3d 1, 11 (D.D.C. 2016) (holding that blog contributor was a “representative of the news media” entitled to FOIA fee waiver); *Long v. Dep't of Homeland Sec.*, 113 F. Supp. 3d 100, 106 (D.D.C. 2015) (determining professor who publishes reports through research institute was a “representative of the news media” and entitled to waiver). Similarly, the ACLU is a “representative of the news media” since it regularly “gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience.” *ACLU of Wash. v. Dep't of Justice*, No. C09–0642RSL, 2011 WL 887731, at *10 (W.D. Wash. Mar. 10, 2011) (finding that the ACLU of Washington is an entity that “gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience”); *ACLU v. Dep't of Justice*, 321 F. Supp. 2d 24, 30 n.5 (D.D.C. 2004). As was true in those instances, each of the Requesters meet the requirements for a fee waiver here.

Furthermore, courts have routinely found other organizations whose mission, function, publishing, and public education activities are similar in kind to the ACLU's to be “representatives of the news media.” *See, e.g.*, *Cause of Action v. IRS*, 125 F. Supp. 3d 145 (D.C. Cir. 2015); *Elec. Privacy Info. Ctr.*, 241 F. Supp. 2d at 10–15 (finding non-profit public interest group that disseminated an electronic newsletter and published books was a “representative of the news media” for purposes of the FOIA); *Nat'l Sec. Archive*, 880 F.2d at 1387; *Judicial Watch, Inc. v. Dep't of Justice*, 133 F. Supp. 2d 52, 53-54 (D.D.C. 2000) (finding Judicial Watch, self-described as a “public interest law firm,” a news media requester).

“[T]he D.C. Circuit has made clear that news-media entities that are seeking information in service of their basic function—disseminating information to the public—are eligible for the fee waiver because public dissemination is not a ‘commercial use’ of the requested records.” *Lieberman*, 227 F. Supp. 3d at 14. As such, in addition to being entitled to a fee waiver because disclosure is in the public interest, the Requesters are also entitled to a fee waiver as representatives of the news media.

* * *

Pursuant to applicable statutes and regulations, we expect a determination regarding expedited processing within 10 days. *See* 5 U.S.C. § 552(a)(6)(E)(ii).

If the Request is denied in whole or in part, we ask that you justify all deletions by reference to specific exemptions to FOIA. We expect the release of all segregable



portions of otherwise exempt material. We reserve the right to appeal a decision to withhold any information or deny a waiver of fees.

Thank you for your prompt attention to this matter.

Please call me at (212) 549-2500, (646) 905-8881, or email me at tlee@aclu.org if you have any questions or wish to obtain further information about the nature of the records in which we are interested. Please furnish the applicable records via email (tlee@aclu.org).

If the records are not in an electronic format, and must be sent via U.S. Mail, please furnish the applicable records to:

Theresa J. Lee
American Civil Liberties Union Foundation
125 Broad Street, 18th Floor
New York, New York 10004

I affirm that the information provided supporting the request for expedited processing is true and correct to the best of my knowledge and belief. *See* 5 U.S.C. § 552(a)(6)(E)(vi); 15 C.F.R. § 4.6(f)(3).

Sincerely,

Theresa J. Lee
Megan C. Keenan
Sophia Lin Lakin
American Civil Liberties Union Foundation
125 Broad Street, 18th Floor
New York, New York 10004
(212) 549-2500
tlee@aclu.org

EXHIBIT C

From: noreply@foia.ssa.gov
To: [Theresa Lee](#)
Subject: Request Acknowledgement by Social Security Administration
Date: Monday, June 23, 2025 5:51:25 PM

This Message Is From an External Sender

This message came from outside your organization.

Case No: 2025-FOIA-02174

Theresa Lee
tlee@aclu.org

Dear Theresa Lee:

This email acknowledges receipt of your request, case tracking number 2025-FOIA-02174. Your request is assigned a case tracking number based on the time it was received by FOIAXpress.

The FOIA is centrally processed at the Social Security Administration (SSA) within the Office of Privacy and Disclosure, with a subset of requests – requests for copies of decedents' original SS-5 and Numident records – processed by the Office of Central Operations, Division of Earnings and Business Services. Please know that FOIA requests are categorized as either simple or complex, depending on the nature of the request and the estimated processing time. For most non-expedited simple requests, we make a determination about release of the record(s) requested within 20 business days. We will place into a complex processing queue any request that cannot be completed within 20 business days due to unusual circumstances.

If you need to correspond with us regarding your request, you may leave a voicemail by calling 410-965-1727 or you may send email correspondence to our FOIA Public Liaison at FOIA.Public.Liaison@ssa.gov. When you email this mailbox, we encourage you to limit the amount of personally identifiable information you provide in your email correspondence. While SSA operates within a secure network, we have no control of the data we receive while it is in transit to or from our FOIA Public Liaison mailbox. Please include your case tracking number in your email.

Sincerely,
The FOIA and Privacy Act Team
SSA

EXHIBIT D

[← Back](#)

Control Number: COW2025004557REQ

FOIA/PA STATUS CHECK

DOCUMENT LIBRARY

Request Details

Request Description	
Date Submitted	06/23/2025
Request Type	FOIA Request

Request Status

Place in Queue	
Status	Submitted
Estimated Completion Date	09/30/2025

Note: This is an estimated date based on average processing times. Availability of records and complexity of request may effect completion date.

For more information about making a FOIA/PA request or submitting an Administrative Appeal, please see the link [How to Request Records through the Freedom of Information Act or Privacy Act \(uscis.gov\)](#).

- ✓

Received

The request was received by USCIS.
- 2

In Process

USCIS is performing activities such as reviewing the request, searching for records, and preparing records for release.
- 3

Completed

USCIS completed processing the request, and a letter was sent to the requester explaining the actions taken

USCIS FOIA/PA Headquarters Office

USCIS Contact Center
1-800-375-5283 or TTY 800-767-1833
FOIAPAQuestions@uscis.dhs.gov

EXHIBIT E



July 29, 2025

David Jennings
Associate Chief
U.S. Citizenship and Immigration Services
Department of Homeland Security
5900 Capital Gateway Dr.
Camp Springs, MD 20588-0009

Dear Mr. Jennings,

Please accept this letter as a request, on behalf of the undersigned organizations, for you (or another senior official in your office) to present a briefing to our organizations regarding the ability of U.S. Citizenship and Immigration Services (USCIS) and the Department of Homeland Security (DHS), through the Systematic Alien Verification for Entitlements (SAVE), to review and verify citizenship of voters and potential voters in the United States.

Our organizations have been monitoring public information regarding DHS's efforts to expand SAVE and to encourage state and local election officials to use it to verify the citizenship status of voters in their jurisdictions.¹ This includes the portion of President Trump's Executive Order No. 14248 purporting to direct DHS to expand access to SAVE for purposes of voter verification and to review voter registration lists and records, "alongside Federal immigration databases . . . for consistency with Federal requirements."² It also includes USCIS's press release, dated May 22, 2025, indicating it has begun integrating data from the Social Security Administration (SSA), as part of USCIS's efforts to "eliminate voter fraud."³ These announcements raised a number of questions for our organizations, including what data would be included in SAVE and how USCIS planned to use it and make it available to election

¹ Jude Joffe-Block and Miles Parks, *The Trump administration is building a national citizenship data system*, NPR (June 29, 2025), <https://www.npr.org/2025/06/29/nx-s1-5409608/citizenship-trump-privacy-voting-database>.

² Executive Order No 14248 § 2(b), *Preserving and Protecting the Integrity of American Elections* (Mar. 25, 2025), <https://www.whitehouse.gov/presidential-actions/2025/03/preserving-and-protecting-the-integrity-of-american-elections/>.

³ USCIS, *Press Release : USCIS Deploys Commons Sense Tools to Verify Voters* (May 22, 2025), <https://www.uscis.gov/newsroom/news-releases/uscis-deploys-common-sense-tools-to-verify-voters>.

officials, particularly given that voting by non-U.S. citizens does not occur at meaningful rates in U.S. elections,⁴ and that SSA itself has explained how its data is not well-suited to verifying current citizenship status for a variety of reasons.⁵

We understand USCIS has begun offering briefings on the use of the SAVE database by election officials to private individuals and entities, including to Cleta Mitchell and the Election Integrity Network (EIN).⁶ As part of USCIS's efforts to "promote transparency" through public engagements,⁷ we hope and expect USCIS will extend the same outreach to our organizations as they did to EIN, provide the same presentation, and respond to questions from the attendees. Given that we are requesting the same presentation, we anticipate that the burden on USCIS will be limited—it should require only your time to present and respond to questions, and no additional preparation.

To further reduce the effort required, we are happy to find a mutually agreeable time within the next 45 days for you to present, and for both you and the attendees to join via Zoom. We will certainly work diligently with you and USCIS to ensure that the program goes smoothly and is well-attended by our members and affiliates.

Should USCIS decline to repeat this existing presentation for our organizations, we respectfully request you provide your reasons in writing, including why you were able to brief EIN but are declining to do so here. Also, in the event that USCIS declines our invitation, please accept this as a request under the Freedom of Information Act, 5 U.S.C. § 552 *et seq.*, for any and all written materials, slide decks, or similar records used during your meeting with EIN on June 12, 2025, including any recordings or notes taken during that meeting.⁸

Thank you for your time. If you have any questions or concerns, please feel free to contact me any time at dlenz@campaignlegalcenter.org.

⁴ See Jude Joffe-Block, *6 facts about false noncitizen voting claims and the election*, NPR (Nov. 5, 2024), <https://www.npr.org/2024/10/12/nx-s1-5147789/voting-election-2024-noncitizen-fact-check-trump>

⁵ See *e.g.* Social Security Administration, Computer Matching Agreement Between the Social Security Administration and the U.S. Department of Education, Match # 1051, § VII. Accuracy Assessments, <https://www.ssa.gov/privacy/cma/FSA-CMA%20ED%20and%20SSA%20-%20CMA%20Match%201051.pdf>.

⁶ See Sen. Padilla, Sen. Peters, and Sen. Merkley, *Letter to Secretary Noem* (July 15, 2025), https://www.padilla.senate.gov/wp-content/uploads/25.07.15-Letter-to-Sec.-Noem-re-SAVE-Program_FINAL.pdf.

⁷ USCIS, *USCIS Engagements*, <https://www.uscis.gov/outreach/uscis-engagements>

⁸ These materials, which involve the operations of both the United States government and state election officials, clearly touch on matters of extraordinary public interest. We therefore request that any fees associated with this request be waived pursuant to 5 U.S.C. § 552(a)(4)(A)(iii).

Respectfully,

/s/ Daniel S. Lenz

Daniel S. Lenz
Senior Legal Counsel
Campaign Legal Center

All Voting is Local

American Civil Liberties Union

American Oversight

Brennan Center for Justice

Citizens for Responsibility and Ethics in
Washington (CREW)

Democracy Defenders Fund

Lawyers Committee for Civil Rights
Under Law

NAACP Legal Defense Fund

Protect Democracy

EXHIBIT F

Dan Lenz

From: Public Engagement <Public.Engagement@uscis.dhs.gov>
Sent: Monday, August 4, 2025 1:53 PM
To: Dan Lenz
Cc: Jonathan Diaz
Subject: RE: Briefing Request

Good afternoon, Mr. Lenz,

Thank you for contacting the USCIS Public Engagement Division. At this time, USCIS is assessing how we can best support engagement priorities across the Department of Homeland Security and will share information about future engagement opportunities soon.

For information about future engagements, you can visit the [USCIS Engagements](#) page or sign up for [Updates from the Public Engagement Division](#). You can also stay connected to USCIS by visiting [uscis.gov](#) or following us on [X \(formerly Twitter\)](#), [Instagram](#), [YouTube](#), [Facebook](#), and [LinkedIn](#).

We appreciate your interest in USCIS.

Thank you,
USCIS Public Engagement Division

From: Dan Lenz <dlenz@campaignlegalcenter.org>
Sent: Tuesday, July 29, 2025 5:14 PM
To: Public Engagement <Public.Engagement@uscis.dhs.gov>
Cc: Jonathan Diaz <JDiaz@campaignlegalcenter.org>
Subject: Briefing Request

You don't often get email from dlenz@campaignlegalcenter.org. [Learn why this is important](#)

CAUTION: This email originated from outside of the Federal Government. DO NOT click links or open attachments unless you recognize and/or trust the sender. Contact the USCIS Security Operations Center with questions or click the "Report Phishing" button to report it as a phishing attempt.

To whom it may concern,

Please see the attached letter, requesting a briefing from USCIS. We look forward to USCIS's response.

Sincerely,

Daniel S. Lenz (he/him)*
Senior Legal Counsel, Litigation

Campaign Legal Center
1101 14th St. NW, Suite 400
Washington, DC 20005
campaignlegalcenter.org

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* Based in Wisconsin. Licensed to practice in Wisconsin and Illinois. Work conducted in the District of Columbia is limited to federal courts.

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UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF COLUMBIA

ANNA BOWER, BENJAMIN WITTES, and
AMERICAN CIVIL LIBERTIES UNION,

Plaintiffs,

v.

UNITED STATES SOCIAL SECURITY
ADMINISTRATION, and UNITED STATES
CITIZENSHIP AND IMMIGRATION
SERVICES,

Defendants.

No. 1:25-cv-2713

ORAL ARGUMENT REQUESTED

[PROPOSED] ORDER

Upon consideration of Plaintiff's motion for preliminary injunction, ECF No. ___, and the entire record herein, for the reasons stated in the accompanying memorandum opinion, it is hereby:

ORDERED that Plaintiffs' Motion for Preliminary Injunction is **GRANTED**; and

ORDERED that Defendants U.S. Social Security Administration and U.S. Citizenship and Immigration Services grant expedited processing of the FOIA Requests that are the subject of this matter;

ORDERED that Defendants U.S. Social Security Administration and U.S. Citizenship and Immigration Services fully process and produce all non-exempt records responsive to the FOIA Requests that are the subject of this matter; and

ORDERED that Defendants U.S. Social Security Administration and U.S. Citizenship and Immigration Services process potentially responsive records at a rate of no less than 1,000 pages per month.

SO ORDERED.

Dated: _____, 2025

REGGIE B. WALTON
United States District Judge