

# **EXHIBIT A**



MEDIA  
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ABRAMS INSTITUTE FOR FREEDOM OF EXPRESSION

## Yale Law School

*Via Email*

August 5, 2021

Privacy Office, Mail Stop 0655  
Department of Homeland Security  
2707 Martin Luther King Jr. AVE SE  
Washington, DC 20528-065  
I&AFOIA@hq.dhs.gov

Re: Freedom of Information Act Request and Request for Expedited Processing and Fee Waiver – Fusion Centers January 4, 2021 Meeting Materials

Dear Sir or Madam:

This is a request for expedited disclosure of documents under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, and the U.S. Department of Homeland Security (“DHS”) regulations relating to FOIA requests, 6 C.F.R. § 5.3. The requested documents concern material circulated at a January 4 meeting of fusion centers. These documents will provide critical context for understanding the violence that took place at the Capitol on January 6 and allow the public to engage in democratic oversight on core questions of government accountability.

This is also a request for expedited processing under 6 C.F.R. § 5.5(e), and for a reduction or waiver of fees under 6 C.F.R. § 5.11(k).

The Media Freedom and Information Access Clinic at Yale Law School submits this Request on behalf of *Just Security*, an online publication dedicated to U.S. national security law and policy that aims to promote principled and pragmatic solutions to the national security problems facing the country, and Ryan Goodman, co-editor-in-chief of *Just Security*.

### **Background**

In the days leading up to the January 6, 2021 attack on the U.S. Capitol, law enforcement across the country saw increasing chatter online about plans to violently stop the counting of electoral votes. As a result of the rising threats of violence, on January 4, “the heads of the fusion centers convened a rare national call to discuss alarming information they were gathering about the coming Trump rally” in Washington, D.C. (the “January 4 Meeting”).<sup>1</sup> These fusion centers are organized and operated by every state and territory.<sup>2</sup> They gather information from a variety of sources, including the Department of Homeland Security’s Office of Intelligence & Analysis.<sup>3</sup>

<sup>1</sup> <https://www.wsj.com/articles/capitol-riot-warnings-werent-acted-on-as-system-failed-11612787596>

<sup>2</sup> <https://www.dhs.gov/fusion-center-locations-and-contact-information>

<sup>3</sup> <https://www.dhs.gov/office-intelligence-and-analysis>

This request concerns documents from the January 4 Meeting of fusion centers. Documents from that meeting will cast light on what law enforcement organizations knew ahead of January 6 and how they responded based on that information. The documents will provide an important avenue for public accountability, helping the public ensure that law enforcement is well prepared to respond adequately to future events.

### **Documents Requested**

Please make available for inspection and copying all documents<sup>4</sup> distributed to those attending or invited to attend the January 4 Meeting. These documents are likely held by the Office of Intelligence & Analysis.

The documents requested include, but are not limited to:

1. Documents identifying the individuals or entities who attended or were invited to attend the January 4 Meeting;
2. All documents provided to attendees in advance of or during the January 4 Meeting;
3. All documents recording, describing or summarizing the discussion that took place at the January 4 Meeting.

### **Application for Expedited Processing**

We request expedited processing for this request pursuant to 5 U.S.C. § 552(a)(6)(E) and implementing regulations 6 C.F.R. § 5.5(e). There is a compelling need for these documents because, as described above, the information requested is sought by a requester “primarily engaged in disseminating information,” and there is “urgency to inform the public about an actual or alleged federal government activity.” 6 C.F.R. § 5.5(e)(ii).

The requested documents indisputably concern operations or activities of the federal government. Further, there is a particular urgency to inform the public about the federal government activity described in this request because any delay continues to leave the public in the dark events leading up to the violence at the U.S. Capitol. Moreover, a House select committee has begun holding hearings about the violence that took place at the Capitol in January.<sup>5</sup> The events on January 6 remain a news story of intense public interest and will be directly informed by the documents responsive to this request. *Just Security* is a publication that is primarily engaged in disseminating information. It frequently publishes information concerning national security law and policy.

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<sup>4</sup> As used herein, the term “documents” includes any and all communications preserved in electronic or written form including, but not limited to, correspondence, documents, data, videotapes, audio tapes, emails, faxes, files, guidance, guidelines, evaluations, instructions, analyses, memoranda, agreements, notes orders, policies, procedures, protocols, reports, rules, technical manuals, technical specifications, training manuals, or studies.

<sup>5</sup> <https://www.npr.org/2021/07/27/1019736664/jan-6-insurrection-hearing-police-nancy-pelosi-committee>

We certify that the information above is true and correct to the best of our knowledge, pursuant to 6 C.F.R. § 5.5(e). If you require further explanation concerning the basis of this request for expedited processing, please contact me at the email address listed below.

**Application for Waiver or Limitation of All Fees**

We also request that the Department waive and/or limit the search, review, and duplication fees associated with this request. 6 C.F.R. § 5.11(k) states that the Department will waive or reduce fees if the requester establishes the applicability of a public interest fee waiver. First, disclosure must be “likely to contribute significantly to public understanding of the operations or activities of the government,” and second, the request cannot be “primarily in the commercial interest of the requester.” 6 C.F.R. § 5.11(k)(1)(i-ii). Both factors counsel in favor of a fee waiver in this instance.

First, disclosure of the requested documents is likely to contribute significantly to public understanding of operations or activities of the government. The requested documents—materials related to the January 4, 2021 fusion centers meeting, in which DHS participated—indisputably “concern identifiable operations or activities of the federal government.” 6 C.F.R. § 5.11(k)(2)(i). Disclosure of the requested documents “is ‘likely to contribute’ to an increased public understanding of those operations or activities.” 6 C.F.R. § 5.11(k)(2)(ii). Because the January 6, 2021 violence at the U.S. Capitol was a major issue of national security, the public should have an understanding of how these events transpired, and how fusion centers and the federal government tried to anticipate and prevent this violence.

Second, disclosure is not primarily in the commercial interest of the requester. 6 C.F.R. § 5.11(k)(1)(ii). The requested documents are not sought for commercial use and will be disclosed to the public at no cost. *Just Security* is based at the Reiss Center on Law and Security at New York University School of Law, a 501(c)(3) charitable organization. It is a non-profit organization and is supported by institutional and individual donors. Requester does not seek the requested materials to further any commercial, trade, or profit interest, but solely for a public purpose: to provide the public with information about the meeting between fusion centers prior to the January 6 Capitol riots. Materials disclosed as a result of this FOIA request will be used to develop publicly accessible content.

We are therefore entitled to a waiver of search fees and review fees, and a waiver or reduction of duplication fees. 6 C.F.R. § 5.11(k). As discussed above, requester is affiliated with an educational institution and files this FOIA request to further scholarly research. If you require further information concerning the basis of this request for a fee waiver and/or limitation, please contact us at the email address listed below.

Should the Department determine that we are not eligible for a waiver of all fees, we are willing to pre-authorize the expenditure of up to \$100.00 to process this request. Please contact us via email to obtain our authorization prior to charging any fees above that amount.

**Response Requested in 10 Days**

Your attention to this request is appreciated, and we anticipate your response to this request within ten (10) working days pursuant to 6 C.F.R. § 5.5(a).

If this FOIA request is denied in whole or in part, we respectfully request that the Department provide a reasonable description of any withheld materials, and a justification for the withholding of such materials, including a reference to the FOIA exemption (or other legal authority) supporting the withholding. 6 C.F.R. §§ 5.6(d)-(e).

Should you have any questions regarding this request, please contact me at your earliest convenience at the email address listed below. If it will accelerate release of responsive documents, please also provide responsive material on a rolling basis. Also, if our request for a fee waiver is not granted in full, please contact us immediately upon making such a determination.

We look forward to working with you on this request. Thank you for your assistance and prompt attention to this matter.

Sincerely,

Michael Linhorst

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