

# **Exhibit 2**



April 20, 2022

U.S. Department of Defense  
Defense Freedom of Information Division  
1155 Defense Pentagon  
Washington, DC 20301-1155  
RE: FREEDOM OF INFORMATION ACT REQUEST

Dear FOIA Officer:

This letter constitutes a request under the federal Freedom of Information Act (FOIA), 5 U.S.C. § 552. COVID-19 policies have been the focus of substantial public interest as disagreements over scientific support and the influence of special interests on policy-making have become subjects of concern. Protecting public health should always be undertaken in a manner consistent with the law and respectful of individuals' civil liberties and civil rights. However, it is not clear that this has been the case at many federal agencies since the pandemic began. For these reasons of advancing the public interest in a non-commercial manner, we are requesting the below documents:

1. **Internal communications:** All communications exchanged by, between, and among relevant officials listed below as it pertains to a letter dated August 24, 2021 signed by Secretary Lloyd Austin mandating all employees of the Defense Department become fully vaccinated against Covid-19,
2. **Supporting records:** All underlying or supporting materials for the letter's requirement that: "Mandatory vaccination against COVID-19 will only use COVID-19 vaccines that receive full licensure from the Food and Drug Administration (FDA), in accordance with FDA-approved labeling and guidance."
3. **Congressional correspondence:** All communication by, between, and among the relevant officials listed below in response to or related to congressional correspondence received pertaining to the August 24, 2021 letter. This should include, at the minimum, all correspondence with or from Senator Ron Johnson and his staff.
4. **Officials:** List of officials to be searched should include, and any additional relevant officials known to the Department:
  - a. Lloyd Austin
  - b. Gilbert Cisneros
  - c. Ashish Vazirani
  - d. Alexandra Baker
  - e. Shawn Skelly
  - f. Caroline Krass
  - g. Brenda Fulton
  - h. Colin Kahl
  - i. Kathleen Hicks



- j. Louis Lauter
  - k. Matthew Williams
  - l. Mark Runstrom
  - m. Brian Woolfork
  - n. Thomas Burke
5. The timeline for the search should be July 1, 2021 through the date the search has commenced.

“Records” means information and documents of any kind, including: documents (handwritten, typed, electronic, or otherwise produced, reproduced, or stored), letters, emails (including attachments), facsimiles, memoranda, correspondence, notes, databases, drawings, diagrams, maps, graphs, charts, photographs, minutes of meetings, calendar entries, meeting agendas, summaries of telephone conversations, notes and summaries of interviews, electronic and magnetic recordings of meetings, virtual meeting records (including meeting requests, attendees, attached documents, and chats from software such as Zoom, Microsoft Teams, or Webex), and any other compilation of data from which information can be obtained. The term “records” also includes any personal email messages, telephone voice mails or text messages, and internet ‘chat’ or social media messages. It also includes any attachments to such documents or information.

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

The Center to Advance Security in America (CASA) is a nonpartisan organization dedicated to improving the safety and security of the American people. CASA educates and informs the American people about the actions of their government and its officials that impact their safety; peace and security; democracy, civil rights, and civil liberties; and privacy.

CASA is focused on public education, and all materials and information requested will be disseminated to the public for this purpose. Thus, the disclosure of the requested records would not be to our primary benefit but would be to the primary benefit of the general public. Further, these records focus on an issue of widespread public interest: whether the U.S. government is acting arbitrarily and capriciously when it comes to imposing and enforcing COVID-19 policies. For these reasons, we request a fee waiver pursuant to the FOIA Act, which provides for fee waivers when: (1) “disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government”; and (2) disclosure “is not primarily in the commercial interest of the requester.” 5 U.S.C. § 552(a)(4)(A)(iii); *see also* 40 C.F.R. § 2.107(l)(1).

Moreover, CASA is a representative of the news media for purposes of FOIA. *See* 5 U.S.C. § 552(a)(4)(A)(ii); *see also Cause of Action v. Federal Trade Commission*, 799 F.3d 1108, 1120 (D.C. Cir. 2015). To wit, CASA is an entity that gathers information, including through FOIA



requests such as this one, that is of interest to at least a segment of the population. For example, CASA has launched investigations into the Department of Homeland Security’s reference to “false or misleading narratives,” which is of interest to Americans concerned about civil liberties, and the meaning of a “diplomatic boycott” of the 2022 Olympic Games, which is of interest to people concerned about human rights and America’s relationship with China. *See* CASA Press Releases, <https://advancing-america.org/category/press-releases/>.

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

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

If you have any questions regarding this request, please feel free to contact me at [aturner@advancing-america.org](mailto:aturner@advancing-america.org).

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

Sincerely,

Adam Turner  
Director  
Center to Advance Security in America



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Washington, DC 20002