



August 23, 2023

U.S. Customs and Border Protection
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. On October 28, 2020, U.S. Customs and Border Protection (CBP) launched a mobile device application called CBP One. CBP One is a mobile application that serves as a single portal to a variety of CBP services. Over the last two years, the agency has expanded CBP One's uses. On August 4, 2023, the [Washington Examiner reported](#) that Mexican cartels have found a way to evade the app's security and request unlimited appointments for anyone in the world, not just those awaiting entry to the United States in Northern Mexico.

Border security has been an increasing concern for many Americans since the change of Administrations in early 2021. There is also evidence that illegal crossings along the southern border of the United States surged by 30% in July 2023 [according to preliminary U.S. Customs and Border Protection data obtained by The Washington Post](#). Many Americans interpret policies which allow these illegal crossings as appearing to be a dereliction of law enforcement duties that the current administration is required to perform under federal law. This raises questions about the internal operations of our federal law enforcement authorities and the dedication of scarce taxpayer resources to these efforts. It also raises questions about federal law enforcement preparedness and operations. To advance the public interest, the Center to Advance Security in America (CASA) requests the following documents:

1. All meeting requests, calendar entries, virtual meeting invitations, call logs and any chats in the relevant virtual platforms (e.g., Microsoft Teams, Zoom, Webex, etc.) pertaining to the development, implementation, and any use whatsoever of the "CBP One™ Mobile Application".
2. We are seeking records on this topic exchanged between and among the relevant following officials:
 - a. Alejandro Mayorkas
 - b. Troy A. Miller
 - c. Pete R. Flores
 - d. Erin Waters
 - e. Stephanie Talton
 - f. Diane Sabatino
 - g. Jason Owens
 - h. Manuel Padilla, Jr.
 - i. Frederick B. Smith
 - j. Timothy Quinn
 - k. Chris Pietrzak



- l. Jeremy Ocheltree
 - m. Sonny Bhagowalia
 - n. Mark Borkowski
3. We are seeking all emails, text messages, chat sessions, or other forms of written or electronic communication used to discuss the development, implementation, and any use of the “CBP One™ Mobile Application” and communications by and between those in #2 above containing the following phrases and/or words; “geofence”, “immigration”, “cartel”, “cartels”, “Mexico”, “Mexican”, “Honduras”, “Honduran”, “Nicaragua”, “Nicaraguan”, “Venezuela”, “Venezuelan”, “China”, “Chinese”, “terrorist”, “gun”, “drugs”, “border”, “immigrant”, “migrant”, “appointment”, “Guatemala”, “Guatemalan”, “Chiapas”, “VPN”, “internet”, “smuggler”, “Haiti”, “Haitian”, “Cuba”, “Cuban”, “hack”, “hacked”, “GPS”, “functionality”, “criminal”, “New York City”, “New York”, “Texas”, “Arizona”, “House”, “Senate”, “Congress”, “Congressman”, “Senator”, “Eric Adams”, “Adams”, “Mayor Adams”, “fentanyl”, “heroin”, “opioid”, “opioids”, “narcoterrorism”, “narcoterrorist”, “asylum”, “refugee”, “methamphetamine”.
 4. All records exchanged by or between any official listed above with any individual working for one of the following media outlets (with suggested email addresses) on the topic of the development, implementation, and any use of the “CBP One™ Mobile Application”:
 - i. Politico (@politico.com)
 - ii. Military Times (@militarytimes)
 - iii. New York Times (@nytimes.com)
 - iv. Washington Post (@washingtonpost.com)
 - v. NBC News (@nbcnews.com)
 - vi. ABC News (@abcnews.com)
 - vii. LA Times (@latimes.com)
 - viii. CBS News (@cbsnews.com)
 - ix. Fox News (@foxnews.com)
 - x. Wall Street Journal (@wsj.com)
 - xi. USA Today (@usatoday.com)
 - xii. Fortune (@fortune.com)
 - xiii. Forbes (@forbes.com)
 - xiv. Vanity Fair (@vanityfair.com)
 - xv. CNN (@cnn.com)
 - xvi. Associated Press (@ap.com)
 - xvii. George Washington University’s Project for Media and National Security
 - xviii. PBS (@pbs.org)
 5. All communications exchanged between any of the above officials, and anyone identified as an employee, agent, consultant, or representative of one of the following organizations:
 - a. Bipartisan Policy Center



- b. Immigration Hub
 - c. Migration Policy Institute
 - d. Thai Community Development Center (HSI)
 - e. National Crime Prevention Council (HSI)
 - f. American Bar Association
 - g. American Civil Liberties Union (ACLU)
 - h. American Immigration Council
 - i. American Voice
 - j. Catholic Charities US
 - k. Conference of Bishops
 - l. Lutheran Immigration and Refugee Service
 - m. National AILA
 - n. National American Immigration Lawyers Association
 - o. National Immigration Law Center
 - p. National Association of Counties
 - q. National Immigration Forum + Law Enforcement Task Force
 - r. Physicians for Human Rights
 - s. USCCB/Migration and Refugee Services
 - t. US Conference of Mayors
 - u. Women Refugee Commission
 - v. Southern Poverty Law Center
 - w. NAACP Legal Defense and Educational Fund, Inc.
 - x. United We Dream
 - y. Define American
 - z. Movimiento Cosecha
 - aa. National Immigrant Justice Center
 - bb. Immigrant Defense Project
 - cc. The Young Center for Immigrants Children's Rights
 - dd. Center for Human Rights and Constitutional Law
6. The timeline for the records requested is from May 1, 2021 through the date when this search begins.

“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, with potentially vital national security implications: whether the U.S. government is prioritizing military readiness and appropriately using taxpayer resources to keep Americans safe. 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 several op-eds, *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 james@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,

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