

1 Marcia Hofmann (SBN 250087)
ZEITGEIST LAW PC
2 25 Taylor St.
San Francisco, CA 94102
3 Email: marcia@zeitgeist.law
Telephone: (415) 830-6664

4 Attorney for Plaintiff CORA CURRIER
5

6 **UNITED STATES DISTRICT COURT**
7 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
8 **SAN FRANCISCO DIVISION**

10)	
11	CORA CURRIER,)	
12)	
12)	Plaintiff,
13	v.)	
14	DEPARTMENT OF HOMELAND SECURITY,)	COMPLAINT FOR INJUNCTIVE
15	DEPARTMENT OF STATE,)	RELIEF
16	and)	
17	DEPARTMENT OF JUSTICE,)	
18)	
18)	Defendants.
19	_____)	

20 1. This is an action under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552,
21 for injunctive and other appropriate relief. Plaintiff Cora Currier seeks the expedited processing
22 and release of records requested from the Department of Homeland Security, Department of
23 State, and Department of Justice concerning the development and execution of travel
24 restrictions barring nationals of several Muslim-majority countries from entering the United
25 States. Ms. Currier is statutorily entitled to the expedited treatment she seeks.

26 //

27 //

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PARTIES

2. Plaintiff Cora Currier is an employee of First Look Media Works, Inc. and a staff reporter for The Intercept, an online news and journalism platform. Ms. Currier has covered national security, counterterrorism, and immigration at The Intercept since 2014. Ms. Currier resides in Marin County, California.

3. Defendant Department of Homeland Security (“DHS”) is a Department of the Executive Branch of the United States Government. DHS is an “agency” within the meaning of 5 U.S.C. § 552(f)(1). Customs and Border Protection is a component of DHS.

4. Defendant Department of State (“DOS”) is a Department of the Executive Branch of the United States Government. DOS is an “agency” within the meaning of 5 U.S.C. § 552(f)(1).

5. Defendant Department of Justice (“DOJ”) is a Department of the Executive Branch of the United States Government. DOJ is an “agency” within the meaning of 5 U.S.C. § 552(f)(1). The Office of the Attorney General, Office of the Deputy Attorney General, Office of Legislative Affairs, Office of Legal Policy, Office of Legal Counsel, Office of Public Affairs, and U.S. Marshals Service are components of DOJ.

JURISDICTION

6. This Court has both subject matter jurisdiction over this action and personal jurisdiction over the parties pursuant to 5 U.S.C. §§ 552(a)(4)(B) and 552(a)(6)(C)(i). This Court also has jurisdiction over this action pursuant to 28 U.S.C. § 1331.

VENUE AND INTRADISTRICT ASSIGNMENT

7. Venue is proper in this district under 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1391(e).

8. Assignment to the San Francisco division is proper pursuant to Local Rule 3-2(c) and (d) because a substantial portion of the events giving rise to this action occurred in this district and division, where Ms. Currier resides.

FACTUAL ALLEGATIONS

Executive Order No. 13,769

1
2
3
4 9. On January 27, 2017, President Trump signed Executive Order No. 13,769 entitled
5 “Protecting the Nation From Foreign Terrorist Entry Into the United States,” which took
6 immediate effect. The executive order was rolled out without any notice-and-comment period or
7 interagency review.

8 10. The executive order banned nationals of Iraq, Syria, Iran, Libya, Somalia, Sudan, and
9 Yemen from entering the United States for 90 days, suspended entry of all refugees for 120 days,
10 and indefinitely banned Syrian refugees from entering the country.

11 11. The executive order’s travel restrictions attracted intense media attention from
12 around the world and sparked protests throughout the United States.

13 12. Within days, more than a dozen lawsuits were filed across the country challenging
14 the constitutionality of Executive Order No. 13,769. Several district courts issued temporary
15 injunctive relief barring enforcement of the executive order, including an order entered by the
16 United States District Court for the Western District of Washington and upheld by the Ninth
17 Circuit Court of Appeals on February 9, 2017. These courts found that the travel restrictions were
18 motivated by a desire to ban Muslims from entering the country, and there was a substantial
19 likelihood that the order violated the Establishment Clause. The district court injunctions remain
20 in effect.

21 13. On March 6, 2017, President Trump issued Executive Order No. 13,780, which was
22 to become effective and revoke Executive Order No. 13,769 on March 16, 2017. Like its
23 predecessor, the new order aimed to restrict travel to the United States from several
24 predominantly Muslim countries.

25 14. Before Executive Order No. 13,780 could take effect, federal district courts in
26 Maryland and Hawai’i issued injunctions to block portions of it on constitutional grounds, again
27 finding a substantial likelihood that the order violated the Establishment Clause. These findings
28 were based in significant part on statements made by members of the Trump Administration prior

1 to the signing of the executive orders.
2

3 **Plaintiff's Freedom of Information Act Requests**
4 **and Requests for Expedited Processing**

5 15. On February 1, 2017, Ms. Currier and her Intercept colleague Jenna McLaughlin
6 requested under the FOIA records concerning DHS's analysis and implementation of Executive
7 Order No. 13,769, specifically identifying CBP as an agency component whose records should be
8 searched.

9 16. On February 1, 2017, Ms. Currier and Ms. McLaughlin requested under the FOIA
10 records concerning DOS's analysis and implementation of Executive Order No. 13,769.

11 17. On February 1, 2017, Ms. Currier and Ms. McLaughlin requested under the FOIA
12 records concerning the DOJ's analysis and implementation of Executive Order No. 13,769
13 located within the Office of the Attorney General, Office of the Deputy Attorney General, Office
14 of Legal Counsel, Office of Legislative Affairs, and U.S. Marshals Service.

15 18. Ms. Currier and Ms. McLaughlin formally requested that the processing of all these
16 requests be expedited because they pertain to information about which there is "[a]n urgency to
17 inform the public about an actual or alleged federal government activity," and were "made by a
18 person primarily engaged in disseminating information." 5 U.S.C. § 552(a)(6)(E)(v)(II).

19 19. Ms. Currier and Ms. McLaughlin also requested that the requests to DHS and DOJ
20 components be expedited pursuant to agency regulations because they involve "[a] matter of
21 widespread and exceptional media interest in which there exist possible questions about the
22 government's integrity which affect public confidence." 6 C.F.R. § 5.5(e)(1)(iv) and 28 C.F.R. §
23 16.5(e)(1)(iv).

24 20. By letter dated February 13, 2017, DHS acknowledged receipt of Ms. Currier and
25 Ms. McLaughlin's FOIA request and granted expedited processing.

26 21. By letter dated February 9, 2017, DOS acknowledged receipt of Ms. Currier and Ms.
27 McLaughlin's FOIA request and granted expedited processing.
28

1 22. By email dated February 13, 2017, the DOJ Office of Information Policy (“OIP”)
2 asked whether the requesters would like a search conducted in the DOJ Office of Public Affairs
3 in response to their request. They responded that they would like such a search to be performed.

4 23. By letter dated February 14, 2017, the DOJ Office of Legal Counsel acknowledged
5 receipt of Ms. Currier and Ms. McLaughlin’s FOIA request and granted expedited processing.

6 24. By letter dated February 17, 2017, the DOJ OIP acknowledged receipt of Ms. Currier
7 and Ms. McLaughlin’s FOIA requests to the DOJ Offices of the Attorney General, Deputy
8 Attorney General, Public Affairs, and Legislative Affairs. OIP granted expedited processing on
9 behalf of these components.

10 25. By email dated February 17, 2017, DHS CBP acknowledged receipt of Ms. Currier
11 and Ms. McLaughlin’s FOIA request.

12 26. By letter dated March 28, 2017, the U.S. Marshals Service acknowledged receipt of
13 Ms. Currier and Ms. McLaughlin’s FOIA request and denied expedited processing. They
14 appealed the denial to the DOJ OIP by letter dated March 29, 2017.

15 27. To date, the agencies have not completed the processing of any of the requests nor
16 informed Plaintiff of an anticipated date for the completion of the processing of the requests.

17 28. Not only have DHS, DOS and DOJ failed to expedite the processing of Plaintiff’s
18 requests, the agencies have also exceeded the generally applicable 20-day statutory deadline for
19 the processing of *any* FOIA request.

20 29. Plaintiff has exhausted all applicable administrative remedies.

21 30. Defendants DHS, DOS and DOJ have wrongfully withheld the requested records
22 from Plaintiff.

23 //

24 //

25 //

26 //

27 //

28

1
2
3
4
5
6
7
8
9
10
11
12

CAUSE OF ACTION

**Violation of the Freedom of Information Act for
Wrongful Withholding of Agency Records**

31. Plaintiff repeats and realleges paragraphs 1-30.

32. DHS, DOS and DOJ have wrongfully withheld agency records requested by Plaintiff by failing to comply with the statutory time limit for the processing of FOIA requests.

33. Plaintiff has exhausted the applicable administrative remedies with respect to DHS, DOS and DOJ's wrongful withholding of the requested records.

34. Plaintiff is entitled to injunctive relief with respect to the release and disclosure of the requested documents.

Requested Relief

Plaintiff prays that this Court:

A. order Defendants DHS, DOS and DOJ to process immediately the requested records in their entirety;

B. order Defendants DHS, DOS and DOJ, upon completion of such expedited processing, to disclose the requested records in their entirety and make copies available to Plaintiff;

C. provide for expeditious proceedings in this action;

D. award Plaintiff her costs and reasonable attorneys fees incurred in this action; and

E. grant such other relief as the Court may deem just and proper.

DATED: March 31, 2017

By /s/ Marcia Hofmann

Marcia Hofmann
ZEITGEIST LAW PC
25 Taylor Street
San Francisco, CA 94102
Email: marcia@zeitgeist.law
Telephone: (415) 830-6664

Attorney for Plaintiff CORA CURRIER