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5 Attorney for Plaintiff CORA CURRIER

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

10  
 11 CORA CURRIER,

12 Plaintiff,

13 v.

14 DEPARTMENT OF HOMELAND SECURITY,

15 DEPARTMENT OF STATE,

16 DEPARTMENT OF JUSTICE,

17 and

18 DEPARTMENT OF DEFENSE,

19 Defendants.  
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 )  
 ) Case No. 3:17-cv-01799  
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)  
 ) **FIRST AMENDED COMPLAINT**  
 ) **FOR INJUNCTIVE RELIEF**  
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 )

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

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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. She 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 (“CBP”) 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, U.S. Marshals Service, Executive Office for United States Attorneys, and Federal Bureau of Investigation are components of DOJ.

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

**JURISDICTION**

7. 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**

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



1 Maryland and Hawai'i issued injunctions to block portions of it on constitutional grounds, again  
2 finding a substantial likelihood that the order violated the Establishment Clause.

3 16. Litigation over both Executive Order 13,769 and 13,780 remains ongoing in  
4 courts throughout the country, including before the Fourth Circuit and Ninth Circuit Courts of  
5 Appeal. A key issue in this litigation is whether the executive orders intentionally targeted  
6 individuals based on their religion in violation of the First Amendment.

7 **Plaintiff's First Set of Freedom of Information Act Requests and**  
8 **Requests for Expedited Processing**

9 17. On February 1, 2017, just five days after President Trump issued Executive Order  
10 No. 13,769, Ms. Currier and her Intercept colleague Jenna McLaughlin submitted a FOIA request  
11 to DHS for records concerning the agency's analysis and implementation of the executive order  
12 from January 20, 2017 to the date of the request, specifically identifying CBP as an agency  
13 component whose records should be searched.

14 18. On February 1, 2017, Ms. Currier and Ms. McLaughlin submitted a FOIA request  
15 to DOS for records about the agency's analysis and implementation of Executive Order No.  
16 13,769 from January 20, 2017 to the date of the request.

17 19. On February 1, 2017, Ms. Currier and Ms. McLaughlin submitted FOIA requests  
18 for records about the DOJ's analysis and implementation of Executive Order No. 13,769 located  
19 within the Office of the Attorney General, Office of the Deputy Attorney General, Office of  
20 Legal Counsel, Office of Legislative Affairs, and U.S. Marshals Service from January 20, 2017  
21 to the date of the request.

22 20. Ms. Currier and Ms. McLaughlin formally requested that the processing of all  
23 these requests be expedited because they pertain to information about which there is "[a]n  
24 urgency to inform the public about an actual or alleged federal government activity," and were  
25 "made by a person primarily engaged in disseminating information." 5 U.S.C. §  
26 552(a)(6)(E)(v)(II).

27 21. Ms. Currier and Ms. McLaughlin also requested that the requests to DHS and DOJ  
28 components be expedited pursuant to agency regulations because they involve "[a] matter of

1 widespread and exceptional media interest in which there exist possible questions about the  
2 government's integrity which affect public confidence." 6 C.F.R. § 5.5(e)(1)(iv) and 28 C.F.R. §  
3 16.5(e)(1)(iv).

4 22. By letter dated February 13, 2017, DHS acknowledged receipt of Ms. Currier and  
5 Ms. McLaughlin's FOIA request and granted expedited processing.

6 23. By letter dated February 9, 2017, DOS acknowledged receipt of Ms. Currier and  
7 Ms. McLaughlin's FOIA request and granted expedited processing.

8 24. By email dated February 13, 2017, the DOJ Office of Information Policy asked  
9 whether the requesters would like a search conducted in the DOJ Office of Public Affairs in  
10 response to their request. They responded that they would like such a search to be performed.

11 25. By letter dated February 14, 2017, the DOJ Office of Legal Counsel  
12 acknowledged receipt of Ms. Currier and Ms. McLaughlin's FOIA request and granted expedited  
13 processing.

14 26. By letter dated February 17, 2017, the DOJ Office of Information Policy  
15 acknowledged receipt of Ms. Currier and Ms. McLaughlin's FOIA requests to the DOJ Offices of  
16 the Attorney General, Deputy Attorney General, Legislative Affairs, and Public Affairs. The DOJ  
17 Office of Information Policy granted expedited processing on behalf of these components.

18 27. By email dated February 17, 2017, DHS CBP acknowledged receipt of Ms.  
19 Currier and Ms. McLaughlin's FOIA request.

20 28. By letter dated March 28, 2017, the U.S. Marshals Service acknowledged receipt  
21 of Ms. Currier and Ms. McLaughlin's FOIA request and denied expedited processing. The  
22 requesters appealed the denial to the DOJ Office of Information Policy by letter dated March 29,  
23 2017. The DOJ Office of Information Policy reversed the decision in a letter emailed to the  
24 plaintiff's counsel on April 4, 2017 and granted expedited processing.

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2 **Plaintiff's Second Set of Freedom of Information Act Requests and**  
3 **Requests for Expedited Processing**

4 29. On April 3, 2017, after the issuance of Executive Order No. 13,780, Ms. Carrier  
5 submitted a FOIA request to DHS for records concerning the agency's analysis and  
6 implementation of Executive Order Nos. 13,769 and 13,780 from February 1, 2017 to the date of  
7 the request. Ms. Carrier specifically identified CBP and the Office of the Inspector General as  
8 agency components whose records should be searched.

9 30. On April 3, 2017, Ms. Carrier submitted a FOIA request to DOS for records  
10 concerning the analysis and implementation of Executive Order Nos. 13,769 and 13,780 from  
11 February 1, 2017 to the date of the request.

12 31. On April 3, 2017, Ms. Carrier submitted FOIA requests for records about the  
13 DOJ's analysis and implementation of Executive Order Nos. 13,769 and 13,780 located within  
14 the Office of the Attorney General, Office of the Deputy Attorney General, Office of Legislative  
15 Affairs, Office of Public Affairs, Office of Legal Counsel, Executive Office for United States  
16 Attorneys, and Federal Bureau of Investigation from February 1, 2017 to the date of the request.

17 32. On April 3, 2017, Ms. Carrier submitted a FOIA request to DOD for records  
18 about the agency's analysis of the impact of Executive Order Nos. 13,769 and 13,780 from  
19 January 20, 2017 to the date of the request.

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

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

28 35. By letter dated April 4, 2017, DHS acknowledged receipt of Ms. Carrier's FOIA  
request and granted expedited processing.

1           36. By letter dated April 4, 2017, DOS acknowledged receipt of Ms. Currier's FOIA  
2 request and granted expedited processing.

3           37. By letter dated April 5, 2017, the DOJ Office of Legal Counsel acknowledged  
4 receipt of Ms. Currier's FOIA request and granted expedited processing.

5           38. By letter dated April 13, 2017, the DOJ Office of Information Policy  
6 acknowledged receipt of Ms. Currier's FOIA request to the DOJ Offices of the Attorney General,  
7 Deputy Attorney General, Legislative Affairs, and Public Affairs and granted expedited  
8 processing on behalf of these components.

9           39. On April 7, 2017, the DOJ Executive Office for United States Attorneys informed  
10 Ms. Currier that it had denied expedited processing for her request. She appealed the denial of  
11 expedited processing on April 9, 2017. The DOJ Office of Information Policy reversed the  
12 decision in a letter emailed to the plaintiff's counsel on April 18, 2017 and granted expedited  
13 processing.

14           40. By letter dated April 7, 2017, DOD acknowledged receipt of Ms. Currier's FOIA  
15 request and denied expedited processing. Plaintiff appealed the denial of expedited processing on  
16 April 11, 2017. DOD granted expedited processing on May 5, 2017.

17           41. By letter dated April 27, 2017, the Federal Bureau of Investigation granted  
18 expedited processing of Ms. Currier's FOIA request.

19           42. To date, even though all of Plaintiff's requests have been granted expedited  
20 processing, the agencies have not completed the processing of the requests nor informed Plaintiff  
21 of an anticipated date for the completion of the processing of the requests.

22           43. Not only have Defendants failed to expedite the processing of Plaintiff's requests,  
23 the agencies have exceeded the generally applicable 20-day statutory deadline for the processing  
24 of *any* FOIA request.

25           44. Plaintiff has exhausted all applicable administrative remedies for all requests.

26           45. Defendants have wrongfully withheld the requested records from Plaintiff.

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**CAUSE OF ACTION**

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

46. Plaintiff repeats and realleges paragraphs 1-45.

47. Defendants have wrongfully withheld agency records requested by Plaintiff by failing to comply with the statutory time limit for the processing of FOIA requests.

48. Plaintiff has exhausted the applicable administrative remedies with respect to Defendants' wrongful withholding of the requested records.

49. 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, DOJ and DOD to process immediately the requested records in their entirety;

B. Order Defendants DHS, DOS, DOJ, and DOD 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: May 19, 2017

By /s/ Marcia Hofmann  
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Attorney for Plaintiff CORA CURRIER



AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Northern District of California

Cora Currier

Plaintiff(s)

v.

Department of Homeland Security, Department of State, Department of Justice, and Department of Defense

Defendant(s)

Civil Action No. 3:17-cv-01799

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address)

Department of Defense
Office of General Counsel
1400 Defense Pentagon
Washington, DC 20301-1400

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Marcia Hofmann
Zeitgeist Law PC
25 Taylor St.
San Francisco, CA 94102

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

Civil Action No. 3:17-cv-01799

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* \_\_\_\_\_, who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

I returned the summons unexecuted because \_\_\_\_\_; or

Other *(specify)*:

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc: