



**DEMOCRACY
FORWARD
FOUNDATION**

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July 18, 2017

VIA EMAIL

Stephanie Carr
FOIA Contact
OSD/JS FOIA Requester Service Center, Office of Freedom of Information
1155 Defense Pentagon
Washington, DC 20301-1155

(b)(6)

whs.mc-alex.esd.mbx.osd-js-foia-requester-service-center@mail.mil

Re: Freedom of Information Act Records Request

Dear Ms. Carr:

Democracy Forward Foundation makes this request pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552 et seq. and Department of Defense regulations at 32 C.F.R. Part 286.

On May 11, 2017, the White House issued Executive Order No. 13,799, establishing the Presidential Advisory Commission on Election Integrity Commission (herein "the Commission").¹

On June 28, 2017, the Commission's Vice Chair, Kris W. Kobach, sent a letter to all 50 States and the District of Columbia requesting the recipients provide voting data on American voters, including: "the full first and last names of all registrants, middle names or initials if available, addresses, dates of birth, political party (if recorded in your state), last four digits of social security number if available, voter history (elections voted in) from 2006 onward, active/inactive status, cancelled status, information regarding any felony convictions, information regarding voter registration in another state, information regarding military status, and overseas citizen information."²

The letter instructed recipients to "submit your responses electronically to ElectionIntegrityStaff@ovp.eop.gov or by utilizing the Safe Access File Exchange ("SAFE"), which is a secure FTP site the federal government uses for transferring large data files." The

¹ Executive Order No. 13,799, 82 Fed. Reg. 22389 (May 11, 2017), [goo.gl/fsYVop](https://www.gpo.gov/fdsys/pkg/2017-05-11/EO-13799.pdf).

² Letter from Kris W. Kobach to Honorable Elaine Marshall, North Carolina Secretary of State (June 28, 2017).

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SAFE website is operated by the U.S. Army Aviation and Missile Research Development and Engineering Center, a component within the U.S. Army, which is one of three military departments within the U.S. Department of Defense.

According to published reports, the Commission plans to use this data to investigate and quantify voter fraud.³

In an effort to understand, and explain to the public, the work of the Commission, Democracy Forward Foundation requests that the Department of Defense produce the following within twenty (20) business days:

- (1) Any and all records that refer or relate to the Presidential Advisory Commission on Election Integrity, including the storage, collection, maintenance, uploading, or transfer of the data requested by the Commission in its June 28, 2017 letter to states.⁴

The time period for this request is January 20, 2017 to the date the search is conducted.

- (2) Any and all records that (i) refer or relate to the Presidential Advisory Commission on Election Integrity and (ii) were sent to or from the U.S. Army Aviation and Missile Research Development and Engineering Center.

The time period for this request is January 20, 2017 to the date the search is conducted.

- (3) Any and all records that were sent to or from members or staff of the Presidential Advisory Commission on Election Integrity, including but not limited to: Secretary Kris Kobach, Secretary of State for Kansas, Vice Chair; Secretary Connie Lawson, Secretary of State of Indiana; Secretary Bill Gardner, Secretary of State of New Hampshire; Secretary Matt Dunlap, Secretary of State of Maine; Ken Blackwell, former Secretary of State of Ohio; Commissioner Christy McCormick, Election Assistance Commission; David Dunn, former Arkansas State Representative; Mark Rhodes, Wood County, West Virginia Clerk; Hans von Spakovsky, Senior Legal Fellow, Heritage Foundation; J. Christian Adams, lawyer, Virginia; Alan Lamar King, probate judge, Alabama; Christopher Herndon; or Andrew Kossack.

The time period for this request is January 20, 2017 to the date the search is conducted.

³ See e.g., Jessica Huseman, "Election Experts See Flaws in Trump Voter Commission's Plan to Smoke Out Fraud," ProPublica (Jul. 6, 2017), <https://goo.gl/dFCt4D>; Bryan Lowry, "Kris Kobach Wants Every US Voter's Personal Information for Trump's Commission," Kansas City Star (Jun. 29, 2017), <http://www.kansascity.com/news/politics->

⁴ Supra Note 2.

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- (4) Any and all records that refer or relate to: (i) the U.S. Army Aviation and Missile Research Development and Engineering Center's (AMRDEC) Safe Access File Exchange (SAFE) application; and (ii) the data requested by the Commission in its June 28, 2017 letter to states.⁵

The time period for this request is January 20, 2017 to the date the search is conducted.

- (5) Any and all records that refer or relate to: (i) the Privacy Act of 1974⁶; and (ii) the data requested by the Commission in its June 28, 2017 letter to states.⁷

The time period for this request is January 20, 2017 to the date the search is conducted.

Please limit the search to the following Department of Defense Offices: the Office of the Secretary, the Office of the Deputy Secretary, the Office of the General Counsel, the Office of the Assistant to the Secretary of Defense for Public Affairs, the Under Secretary of Defense for Policy, the Office of Acquisition, Logistics and Technology, and the Office of the Chief Information Officer.

Please search for records regardless of format, including paper records, electronic records, audiotapes, videotapes, photographs, data, and graphical materials. This request includes, without limitation, all correspondence, letters, emails, text messages, calendar entries, facsimiles, telephone messages, voice mail messages, and transcripts, notes, minutes, or audio or video recordings of any meetings, telephone conversations, or discussions.

FOIA requires agencies to disclose information, with only limited exceptions for information that would harm an interest protected by a specific exemption or where disclosure is prohibited by law. 5 U.S.C. §552(a)(8)(A). In the event that any of the requested documents cannot be disclosed in their entirety, we request that you release any material that can be reasonably segregated. *See* 5 U.S.C. § 552(b). Should any documents or portions of documents be withheld, we further request that you state with specificity the description of the document to be withheld and the legal and factual grounds for withholding any documents or portions thereof in an index, as required by *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973). Should any document include both disclosable and nondisclosable material that cannot reasonably be segregated, we request that you describe what proportion of the information in a document is non-disclosable and how that information is dispersed throughout the document. *Mead Data Cent., Inc. v. U.S. Dep't of*

⁵ Supra Note 2.

⁶The Privacy Act of 1974, 5 U.S.C. § 552a, <https://www.justice.gov/opcl/privacy-act-1974>

⁷ Supra Note 2.

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Air Force, 566 F.2d 242, 261 (D.C. Cir. 1977).

If requested records are located in, or originated in, another agency, department, office, installation or bureau, please refer this request or any relevant portion of this request to the appropriate entity.

To the extent that the records are readily reproducible in an electronic format, we would prefer to receive the records in that format. However, if certain records are not available in that format, we are willing to accept the best available copy of each such record.

Please respond to this request in writing within 20 working days as required under 5 U.S.C. § 552(a)(6)(A)(i). If all of the requested documents are not available within that time period, we request that you provide us with all requested documents or portions of documents that are available within that time period. If all relevant records are not produced within that time period, we are entitled to a waiver of fees for searching and duplicating records under 5 U.S.C. § 552(a)(4)(A)(viii)(I).

Democracy Forward Foundation is a nonprofit organization organized under Internal Revenue Code § 501(c)(3) and dedicated to educating the public about the operation of the federal government.⁸ As a nonprofit organization, we do not have a commercial interest in the records. The records we obtain from this request will be used to support our public education efforts, and we intend to disseminate publicly an analysis of those records. Dissemination of the information here requested is particularly important to ensure transparency of government. We therefore request a waiver of fees for searching and duplicating records in response to this request under the exception at 5 U.S.C. § 552(a)(4)(A)(iii), which requires waiver of fees if the disclosure is "in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester." If our request for a waiver is denied, we are willing to pay all reasonable fees incurred for searching and duplicating records in responding to this request, up to \$250. If the costs of responding to this request should exceed that amount, please contact us before incurring costs exceeding that amount.

If you need clarification as to the scope of the request, have any questions, or foresee any obstacles to releasing fully the requested records within the 20 day period, please contact Josephine Morse as soon as possible at foia@democracyforward.org or 202-448-9090.

We appreciate your assistance and look forward to your prompt response.

⁸ <https://www.democracyforward.org>.

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Sincerely,

A handwritten signature in black ink, appearing to read 'Josephine Morse', is centered on the page. The signature is written in a cursive style with a prominent vertical stroke on the left side.

Josephine Morse
Democracy Forward Foundation