

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

Freedom of the Press Foundation

49 Flatbush Ave., #1017
Brooklyn, NY 11217

Dark Mode LLC d/b/a 404 Media

5101 Santa Monica Blvd., Ste. 8
Los Angeles, CA 90029

Plaintiffs,

v.

Case No. 1:25-cv-3387

**United States Department of Homeland
Security**

245 Murray Lane, SW
Mail Stop 0485
Washington, DC 20528

**United States Centers for Medicare and
Medicaid Services**

7500 Security Boulevard
Baltimore, MD 21244

Defendants.

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Plaintiffs Freedom of the Press Foundation and Dark Mode LLC, d/b/a 404 Media (“404 Media”) (together, “Plaintiffs”) bring this suit against Defendants United States Department of Homeland Security (“DHS”) and United States Centers for Medicare and Medicaid Services (“CMS”) (together, “Defendants”), stating in support:

INTRODUCTION

1. This is an action under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, for declaratory, injunctive, and other appropriate relief.

2. Through the FOIA, Plaintiffs seek disclosure of agency records they requested from Defendants relating to an inter-agency agreement through which CMS will share the sensitive personal data of nearly 80 million people to DHS' Immigration and Customs Enforcement agency ("ICE") in connection with the Trump Administration's mass-deportation efforts.

3. Defendants have improperly denied Plaintiffs access to the requested records by constructively denying Plaintiffs' FOIA requests. Defendants have therefore violated the FOIA and have contravened its purpose of ensuring the public remains informed about "what their government is up to." *See Dep't of Justice v. Reporters Comm. for Freedom of Press*, 489 U.S. 749, 773 (1989).

4. The Court should order Defendants to disclose the requested records immediately.

PARTIES

5. The Freedom of the Press Foundation is a 501(c)(3) non-profit organization dedicated to advocating for press freedom and government transparency.

6. 404 Media is an independent online publication that reports on technology and the internet. Among other subjects, its coverage focuses on surveillance technology and its implication on personal privacy.

7. DHS is an agency within the meaning of 5 U.S.C. § 552(f). It has possession and control of the public records that Plaintiffs have requested.

8. CMS is an agency within the meaning of 5 U.S.C. § 552(f). It has possession and control of the public records that Plaintiffs have requested.

JURISDICTION AND VENUE

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

10. Venue is proper in this judicial district under 5 U.S.C. § 552(a)(4)(B).

BACKGROUND

11. In July 2025, DHS and CMS entered into an agreement through which CMS will provide ICE certain personal information of nearly 80 million Medicaid patients (“DHS-CMS Agreement”).¹

12. CMS had previously followed a policy of not sharing such data with ICE, and news of the agreement prompted several states to sue to block the agency from doing so. *See California v. U.S. Dep’t of Health & Human Servs.*, No. 25-cv-05536-VC, 2025 WL 2356224 (N.D. Cal. Aug. 12, 2025) (granting in part states’ motion for preliminary injunction).

13. On July 17, 2025, each Plaintiff submitted FOIA requests to each Defendant seeking disclosure of the DHS-CMS Agreement. *See* Exs. 1-4.

14. Despite having received the FOIA requests, and despite their obligations under the law, Defendants have failed to notify Plaintiffs of the scope of documents that

¹ *See* Kimerly Kindy and Amanda Seitz, *Trump administration hands over Medicaid recipients’ personal data, including addresses, to ICE*, The Associated Press (July 17, 2025), <http://bit.ly/4nbVhK3> (reporting that the agreement states that “ICE will use the CMS data to allow ICE to receive identity and location information on aliens identified by ICE”); *see also* Leah Feiger, et al., *ICE is Getting Unprecedented Access to Medicaid Data*, WIRED (July 17, 2025), <http://bit.ly/48mmWDL>.

they will produce or the scope of documents that they plan to withhold in response to the FOIA requests.

CLAIM FOR RELIEF

**Count I—Declaratory and Injunctive Relief
(Constructive Denial in Violation of FOIA, 5 U.S.C. § 552)**

15. Plaintiffs re-allege and incorporate by reference all previous paragraphs as if fully set forth herein.

16. Plaintiffs' FOIA requests were properly made and seek disclosure of agency records within the control of Defendants, each of which is an agency subject to the FOIA.

17. Neither Defendant has made or communicated to Plaintiffs the required "determination" within the meaning of the FOIA in the timeframe required by law. *See* 5 U.S.C. § 552(a)(6)(A).

18. Defendants have failed to disclose all non-exempt public records responsive to Plaintiffs' FOIA request.

19. There is no lawful basis for Defendants to withhold, in whole or in part, the public records that Plaintiffs have requested.

PRAYER FOR RELIEF

Plaintiffs ask that the Court:

- A. Provide for expeditious proceedings in this action;
- B. Declare that the documents sought by Plaintiffs, as described in the foregoing paragraphs, are public under 5 U.S.C. § 552 and must be disclosed;
- C. Declare Defendants' failure to provide the public records unlawful under the FOIA;

D. Enter an injunction, pursuant to 5 U.S.C. § 552(a)(4)(B), directing Defendants to make the requested records available to Plaintiffs, unredacted, and without further delay, and setting a deadline for compliance;

E. Award Plaintiffs their costs and reasonable attorneys' fees incurred in this action pursuant to 5 U.S.C. § 552(a)(4)(E); and

F. Grant Plaintiffs such other and further relief as this Court may deem just and proper.

Date: September 24, 2025

/s/ Matthew S.L. Cate

Matthew S.L. Cate (#1720435)

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Dark Mode LLC d/b/a 404 Media