

Washington, D.C. Plaintiff works to promote transparency and accountability in government, in part, by educating the public on government actions and policies.

4. Defendant DOJ is a federal agency within the meaning of FOIA, 5 U.S.C. § 552(f)(1), and is headquartered in Washington, D.C. The Executive Office of United States Attorneys (“EOUSA”) and the U.S. Attorney’s Office for the District of Columbia (“USAO-DC”) are components of DOJ. DOJ has possession, custody, and control of records to which Plaintiff seeks access.

Facts

5. Democracy Forward submitted several FOIA requests to Defendant DOJ regarding Acting U.S. Attorney for the District of Columbia Ed Martin’s communications, actions, and meetings.

6. Mr. Martin’s nomination to become the U.S. Attorney for the District of Columbia is currently pending before the U.S. Senate, creating significant public interest in understanding how he has performed that critical role in an acting capacity.

7. There is significant public concern about Acting U.S. Attorney Martin’s willingness to impartially administer justice as the lead prosecutor in the nation’s capital. This arises from his support for individuals convicted of offenses related to the January 6, 2021, attack on the U.S. Capitol, his apparent involvement in dismissing career prosecutors for their involvement in January 6 cases, his reference to himself as “Trump’s lawyer[.]” while serving as Acting U.S. Attorney, and his opening of investigations into members of Congress related to their public statements.¹

¹ See, e.g., Glenn Thrush, *U.S. Attorney Rebuffed by Justice Dept. in Push to Escalate Inquiry Into Schumer*, N.Y. Times (updated Mar. 14, 2025), <https://www.nytimes.com/2025/03/03/us/politics/us-attorney-justice-dept-schumer-inquiry.html>.

8. Mr. Martin has also repeatedly used a personal, non-official, electronic messaging account to post and re-post messages concerning agency business, including announcing an intent to investigate particular matters and to send official correspondence.²

X Messages (EOUSA-2025-002191)

9. On February 14, 2025, Democracy Forward sent a FOIA request to DOJ's EOUSA for the following:

All X direct message communications of U.S. Attorney Ed Martin, @EagleEdMartin, concerning any federal government business, function, policy, decision, or operation.

Given the public nature of X and the use of non-official electronic messaging accounts to deliver official communications concerning government business, [footnote omitted] DFF believes that an adequate search must include searches calculated to locate records created on those non-official systems.

10. The request sought records from January 27, 2025, through the date of the search.

11. On February 20, 2025, DOJ acknowledged Democracy Forward's request, assigning it tracking number EOUSA-2025-002191.

Devan Cole and Jamie Gangel, *Ex-January 6 Prosecutors Urge Attorney Disciplinary Board to Investigate Trump's Controversial Pick to be DC's Top Prosecutor*, CNN (updated Apr. 14, 2025, 4:57 PM EDT), <https://www.cnn.com/2025/04/14/politics/ed-martin-us-attorney-dc-board-letter/index.html>; Scott MacFarlane and Daniel Klaidman, *Trump Nominee to be D.C.'s Top Prosecutor Touts Legal Work for Jan. 6 Rioters in Senate Questionnaire*, CBS News (updated Apr. 3, 2025, 3:07 PM EDT), <https://www.cbsnews.com/news/ed-martin-january-6-rioters-attorney-senate-questionnaire/>; Ryan J. Reilly, *Trump's New D.C. Prosecutor Launches Review to Examine 'Great Failure' of Key Charge Leveled Against Jan. 6 Defendants*, NBC News (Jan. 27, 2025, 7:51 PM EDT), <https://www.nbcnews.com/politics/justice-department/trump-dc-prosecutor-ed-martin-launches-review-jan-6-cases-rna189503>.

² Ed Martin (@EagleEdMartin), X (Feb. 26, 2025, 5:12 PM), <https://x.com/EagleEdMartin/status/1894873079165161839>; Ed Martin (@EagleEdMartin), X (Feb. 7, 2025, 11:27 AM), ; <https://x.com/EagleEdMartin/status/1886456136032817488>. ; Ed Martin (@EagleEdMartin), X (Feb. 3, 2025, 11:46 AM), <https://x.com/EagleEdMartin/status/1886456136032817488>.

12. Democracy Forward has received no further communication from DOJ regarding request number EOUSA-2025-002191.

Calendar Entries (EOUSA-2025-002394)

13. On March 6, 2025, Democracy Forward sent a FOIA request to DOJ's EOUSA for the following:

All calendar entries (including calendar invitations, calendar invitation attachments) of Acting U.S. Attorney Ed Martin.

14. The request sought records from January 27, 2025, through the date of the search.

15. On March 7, 2025, DOJ acknowledged Democracy Forward's request, assigning it tracking number EOUSA-2025-002394.

16. Democracy Forward has received no further communication from DOJ regarding request number EOUSA-2025-002394.

Martin Visitor Logs (EOUSA-2025-002395)

17. On March 6, 2025, Democracy Forward sent a FOIA request to DOJ's EOUSA for the following:

All records used to track visitor requests or appointments, reflecting any and all visitors who came to meet with Acting U.S. Attorney Ed Martin. Responsive records may include but should not be limited to records identifying potential visitors, times of visits, additional attendees of meetings with the visitors, or the purpose of the visits.

18. The request sought records from January 27, 2025, through the date of the search.

19. On March 7, 2025, DOJ acknowledged Democracy Forward's request, assigning it tracking number EOUSA-2025-002395.

20. Democracy Forward has received no further communication from DOJ regarding request number EOUSA-2025-002395.

Martin Sent Emails (EOUSA-2025-002396)

21. On March 6, 2025, Democracy Forward sent a FOIA request to DOJ's EOUSA for the following:

All email communications (including email messages, complete email chains, email attachments, calendar invitations) sent by Acting U.S. Attorney Ed Martin that concern official business.

In an effort to accommodate EOUSA and reduce the number of potentially responsive records to be processed and produced, we have limited this request to communications sent by Acting U.S. Attorney Ed Martin. To be clear, however, I still request that complete email chains and texts be produced, displaying both sent and received messages. This means, for example, that both an official's response to an email and the initial received message are responsive to this request and should be produced.

22. The request sought records from January 27, 2025, through the date of the search.

23. On March 7, 2025, DOJ acknowledged Democracy Forward's request, assigning it tracking number EOUSA-2025-002396.

24. Democracy Forward has received no further communication from DOJ regarding request number EOUSA-2025-002396.

Martin Text Messages (EOUSA-2025-002397)

25. On March 6, 2025, Democracy Forward sent a FOIA request to DOJ's EOUSA for the following:

All text messages sent and received by Acting U.S. Attorney Ed Martin that concern official business.

26. The request sought records from January 27, 2025, through the date of the search.

27. On March 7, 2025, DOJ acknowledged Democracy Forward's request, assigning it tracking number EOUSA-2025-002397.

28. Democracy Forward has received no further communication from DOJ regarding request number EOUSA-2025-002397.

29. In submitting all of the above FOIA requests, Democracy Forward requested fee waivers in light of the public interest in disclosure of the requested information. DOJ has not provided Democracy Forward with a determination on its fee waiver requests.

Exhaustion of Administrative Remedies

30. As of the date of the Complaint, Defendant has failed to notify Democracy Forward of determinations regarding Democracy Forward's FOIA requests. Through Defendant's failure to respond within the time period required by law, Democracy Forward has constructively exhausted administrative remedies.

CLAIM FOR RELIEF

Count 1 (Violation of FOIA, 5 U.S.C. § 552)

31. Plaintiff incorporates by reference the foregoing paragraphs as though fully set forth herein.

32. By failing to respond to Plaintiff's requests with determinations within the statutorily mandated time period, Defendant has violated its duties under 5 U.S.C. § 552, including but not limited to, its duties to conduct a reasonable search for responsive records, to take reasonable steps to release all nonexempt information, and to not withhold responsive records.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff requests that this Court:

1. Order Defendant to conduct searches for any and all responsive records to Plaintiff's FOIA requests using search methods reasonably calculated to lead to discovery of all responsive records;

2. Order Defendant to produce, by a date certain, any and all non-exempt responsive records and a *Vaughn* index of any responsive records withheld under a claim of exemption;
3. Enjoin Defendant from continuing to withhold any and all non-exempt responsive records;
4. Order Defendant to grant Plaintiff's requests for fee waivers;
5. Award Plaintiff its costs, attorneys' fees, and other disbursements for this action; and
6. Grant any other relief this Court deems appropriate.

Dated: April 21, 2025

Respectfully submitted,

/s/ Daniel A. McGrath

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