

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

WAR HORSE NEWS, INC.  
127 Public Square, Suite 2000  
Cleveland, OH 44114

*Plaintiff,*

v.

U.S. DEPARTMENT OF DEFENSE  
1400 Defense Pentagon  
Washington, DC 20301

*Defendant.*

Civil Action No. 26-cv-3208

**COMPLAINT**

**PRELIMINARY STATEMENT**

1. Plaintiff War Horse News, Inc. (“War Horse”) brings this action against the United States Department of Defense (“DoD” or the “Department”)<sup>1</sup> under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, and the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, seeking declaratory, injunctive, and other appropriate relief to compel the immediate release of agency records improperly withheld from War Horse by DoD concerning the Department’s use of artificial intelligence (“AI”) in connection with classified or otherwise sensitive government information.

2. As federal agencies increasingly deploy AI systems in national security and other important contexts, the public has a substantial interest in understanding how the Department uses AI in connection with classified and sensitive information.

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<sup>1</sup> References to the Department of Defense include any secondary titles, such as Department of War. *See* Exec. Ord. 14347.

3. Transparency concerning these practices is particularly important where the government's use of AI may affect the security of sensitive information and the public's confidence in the Department's management of national security resources.

4. Disclosure of the requested records would therefore advance the core purpose of FOIA by enabling the public to evaluate the Department's practices and compliance with federal laws, including but not limited to the Privacy Act, the Federal Records Act, and Department of Defense Instruction 5015.02 with respect to the use of AI and classified and sensitive information.

5. Given the Department's refusal to respond to Plaintiff's FOIA request, judicial action is necessary to compel compliance with FOIA and production of responsive documents.

#### **JURISDICTION AND VENUE**

6. This Court has subject matter jurisdiction over this action pursuant to 5 U.S.C. §§ 552(a)(4)(B) and (a)(6)(E)(iii), 28 U.S.C. § 1331 because it arises under federal law and the Declaratory Judgment Act, 28 U.S.C. §§ 2201, and 2202.

7. Venue is proper in this District pursuant to 5 U.S.C. § 552(a)(4)(B), which expressly provides for judicial review of FOIA claims in the District of Columbia, and 28 U.S.C. § 1391(e) because Defendant is a federal agency and a substantial part of the events or omissions giving rise to Plaintiff's claims occurred in this District.

8. Defendant failed to comply with the applicable time-limit provisions of FOIA. Accordingly, Plaintiff is deemed to have exhausted its administrative remedies pursuant to 5 U.S.C. § 552(a)(6)(C)(i) and is entitled to judicial review.

9. This Court has the authority to grant declaratory relief pursuant to the Declaratory Judgment Act, 28 U.S.C. § 2201, *et seq.*

10. This Court has the authority to award reasonable costs and attorneys' fees under 5 U.S.C. § 552(a)(4)(E).

### **PARTIES**

11. Plaintiff War Horse is a nonprofit organization established under section 501(c)(3) of the Internal Revenue Code. Plaintiff's core mission is to educate the public on military service, war, and their impact through independent journalism, education programs, and community-building events.

12. Defendant DoD is a Department of the Executive Branch of the United States Government and an agency within the meaning of FOIA, 5 U.S.C. § 552(f)(1). DoD is headquartered in Washington, D.C. and has possession, custody, and control of the records Plaintiff seeks.

### **FACTS**

#### ***The Department's Use of Artificial Intelligence***

13. On December 9, 2025, the Department announced its partnership with Google Cloud's Gemini for Government, housed on GenAI.mil, and its initiative for an "AI first workforce."<sup>2</sup> The Department described GenAI.mil as a platform intended to provide generative-AI capabilities to military personnel, civilian employees, and contractors across the Department.<sup>3</sup>

14. On May 1, 2026, the Department announced agreements with artificial intelligence companies, including SpaceX, OpenAI, Google, NVIDIA, Reflection, Microsoft, Amazon Web Services and Oracle to "deploy their advance AI capabilities on the Department's classified

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<sup>2</sup> *The War Department Unleashes AI on GenAI.mil Platform*, U.S. Dep't of War (Dec. 9, 2025), <https://www.war.gov/News/Releases/Release/Article/4354916/the-war-department-unleashes-ai-on-new-genaimil-platform/>.

<sup>3</sup> *Id.*

networks for lawful operational use.”<sup>4</sup> The Department explained that the AI capabilities would be integrated into its Impact Level 6 and Impact Level 7 network environments—DoD's highest and most stringent security classifications for information systems—and would support “warfighting, intelligence, and enterprise operations.”<sup>5</sup>

15. The Department’s use of AI has rapidly expanded in scale. In announcing its classified-network agreements, the Department reported that more than 1.3 million Department personnel had used GenAI.mil, generating tens of millions of prompts and deploying hundreds of thousands of AI agents in approximately five months.<sup>6</sup>

16. The Department has rapidly expanded its use of AI to support administrative, operational, and analytical functions. For example, Deputy Assistant Secretary of War for Critical Technologies Jacob Glassman publicly stated that he uses GenAI.mil in his job “every single day.”<sup>7</sup>

17. On June 25, 2026, the Department announced AI-enabled capabilities for battle management and targeting.<sup>8</sup> These developments demonstrate the increasing integration of AI into the Department’s operations and the importance of understanding how the Department is using AI in connection with classified information.

18. On August 31, 2026, the Department announced the launch of OpenAI’s Chat GPT Mil on GenAI.mil, describing it as the latest frontier-AI capability housed on the Department’s

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<sup>4</sup> *Classified Networks AI Agreements*, U.S. Dep’t of War (May 1, 2026), <https://www.war.gov/News/Releases/Release/Article/4475177/classified-networks-ai-agreements/>.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> Jon Harper, *Pentagon uses GenAI.mil to create 100k agents*, Defense Scoop (April 23, 2026), <https://defensescoop.com/2026/04/23/pentagon-uses-genai-mil-to-create-agents/>.

<sup>8</sup> *DOW Unleashes 'Agent Network' to Transform AI-Enabled Battle Management and Targeting*, U.S. Dep’t of War (June 25, 2026), <https://www.war.gov/News/Releases/Release/Article/4526862/dow-unleashes-agent-network-to-transform-ai-enabled-battle-management-and-targe/>.

generative-AI platform.<sup>9</sup> The Department stated that ChatGPT Mil is accredited for Controlled Unclassified Information at Impact Level 5 and supports document-heavy work across the Department, including planning, policy, logistics, and administration.<sup>10</sup> The Department further stated that the deployment is being scaled to support more than three million Department personnel.<sup>11</sup>

19. The Department has publicly acknowledged both the widespread use of AI within the Department and the deployment of AI capabilities on classified networks. The nature and extent of the Department's use of AI in connection with classified information, including what functions AI performs and how those systems interact with classified information, are matters of significant public concern.

#### ***War Horse's FOIA Request***

20. On July 31, 2026, War Horse submitted a FOIA request to the Department seeking the following records:<sup>12</sup>

1. All prompts, queries, inputs, conversations, requests, uploads, attachments, responses, transcripts, logs, or other records reflecting the use of any generative AI platform that:
  - a. involved classified or sensitive information;
  - b. related to operations or activities of the Department;
  - c. concerned military operations, intelligence, procurement or cybersecurity; and/or
  - d. were created by senior Department officials acting in their official capacities, including but not limited to:
    - i. The Secretary of Defense and Deputy Secretary of Defense;
    - ii. The Chiefs of Staff, Deputy Chiefs of Staff, Senior Advisers, Counselors, Military Assistants, and Special Assistants assigned to the immediate offices of the Secretary and Deputy Secretary;

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<sup>9</sup> *Department of War Launches OpenAI's ChatGPT Mil on GenAI.mil*, U.S. Dep't of War (Aug. 31, 2026), <https://www.war.gov/News/Releases/Release/Article/4586352/departments-of-war-launches-openais-chatgpt-mil-on-genaimil/>.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> Attached as Exhibit A.

- iii. Under Secretaries of Defense and Principal Deputy Under Secretaries of Defense;
  - iv. Assistant Secretaries of Defense and Principal Deputy Assistant Secretaries of Defense;
  - v. The Director and Deputy Director of the Chief Digital and Artificial Intelligence Office;
  - vi. Other Presidential Appointees, Senate-confirmed officials, non-career Senior Executive Service officials, and Schedule C political appointees assigned to the Office of the Secretary of Defense.
2. All records sufficient to identify whether any prompt, query, upload, attachment, or AI interaction by the individual identified above contained:
- a. classified information;
  - b. For Official Use Only information;
  - c. operational plans;
  - d. intelligence information;
  - e. personally identifiable information; or
  - f. any other non-public government information.

21. War Horse requested that the Department search the primary accounts for these officials, as well as any other email addresses, accounts, or devices that these officials use for official business.

22. War Horse requested a waiver of fees associated with processing the request for records under 5 U.S.C. 552(a)(4)(A) and 28 C.F.R. 16.10(k).

23. On July 31, 2026, Plaintiff received an electronic acknowledgment from DoD regarding Plaintiff's request.

***Defendant DoD's Failure to Timely Comply with Plaintiff's Request***

24. DoD has not responded to Plaintiff's FOIA request, despite FOIA's requirement that an agency determine whether to comply with a FOIA request within twenty (20) working days and notify the requester of that determination. 5 U.S.C. § 552(a)(6)(A)(i).

25. On September 11, 2026, Plaintiff sent a follow-up email to DoD's FOIA Liaison, Chief Pamela Andrews, regarding the FOIA request. As of the filing of this Complaint, Plaintiff has received no response to that email.

26. To date, Defendant has failed to: (1) produce the requested records or otherwise demonstrate that the requested records are exempt from production; (2) issue any determination on Plaintiff's request, including Plaintiff's fee waiver request; (3) notify Plaintiff that it cannot or will not respond; or (4) seek a lawful extension of the time to respond.

27. Because Defendant has failed to comply with the time limit set for in 5 U.S.C. § 552(a)(6)(A)(i) or extend the time limit by written notice as set forth in 5 U.S.C. § 552(a)(6)(B)(i), Plaintiff is deemed to have exhausted any and all applicable administrative remedies pursuant to 5 U.S.C. § 552(a)(6)(C).

28. Defendant has wrongfully withheld the requested records from Plaintiff.

### **COUNT ONE**

#### **Violation of Statutory Deadline**

29. Plaintiff War Horse reasserts and realleges all allegations set forth above as if each was set forth herein.

30. FOIA requires federal agencies to respond to public requests for records, including files maintained electronically, to increase public understanding of the workings of government and to provide access to government information. FOIA reflects a "profound national commitment to ensuring an open Government" and agencies must "adopt a presumption in favor of disclosure." Presidential Mem., 74 Fed. Reg. 4683 (Jan. 21, 2009).

31. FOIA requires agencies to determine within 20 working days after the receipt of any FOIA request whether to comply with the request. 5 U.S.C. § 552(a)(6)(A)(i).

32. Agencies may only extend this period for an additional 10 working days in "unusual circumstances." 5 U.S.C. § 552(a)(6)(B)(i). FOIA also provides that upon request, agencies are to make records "promptly available." 5 U.S.C. § 552(a)(3)(A).

33. More than 20 working days have elapsed since Plaintiff submitted its FOIA Request on July 31, 2026.

34. The Department has not made or communicated any determination concerning Plaintiff's FOIA request. The Department has not produced any responsive records, issued a determination withholding any responsive records, invoked an extension of the statutory deadline based on unusual circumstances, or otherwise responded to Plaintiff's request.

35. Defendant has failed to comply with FOIA's statutory time limit. Accordingly, Plaintiff is deemed to have exhausted its administrative remedies. 5 U.S.C. § 552(a)(6)(C)(i).

36. Plaintiff is therefore entitled to an order compelling Defendant to conduct an adequate search for records responsive to Plaintiff's request and to promptly produce all non-exempt responsive records, together with a lawful justification for any withholding.

### **RELIEF SOUGHT**

**WHEREFORE**, Plaintiff respectfully requests that this Court:

1. Enter an order declaring that Defendant has violated the Freedom of Information Act, 5 U.S.C. § 552, by failing to comply with FOIA's statutory deadline to respond to Plaintiff's FOIA request;

2. Order Defendant to promptly conduct a search for any and all responsive records to Plaintiff's FOIA request using search methods reasonably likely to lead to discovery of all responsive records;

3. Order Defendant to expeditiously and fully process Plaintiff's FOIA Request and disclose all responsive records that are not exempt from disclosure, and, with respect to any records

or portions of records withheld pursuant to a FOIA exemption, provide Plaintiff with a *Vaughn* or other sufficiently detailed justification for each withholding;

4. Enjoin Defendant from withholding any non-exempt responsive records responsive to Plaintiff's FOIA request;

5. Order Defendant to preserve all records, in whatever form they exist, that are potentially responsive to War Horse's pending FOIA Request, including during the pendency of this action and throughout the processing of the request;

6. Order Defendant to grant Plaintiff's request for a fee waiver of all applicable fees pursuant to 5 U.S.C. § 552(a)(4)(A)(iii);

7. Award Plaintiff attorney fees and costs pursuant to 5 U.S.C. § 552(a)(4)(E);

8. Maintain jurisdiction over this action until Defendant is in compliance with FOIA and every order of this Court; and

9. Grant such additional and further relief to which Plaintiff may be entitled.

Dated: September 15, 2026

Respectfully submitted,

/s/ Andrew H. Warren

Andrew H. Warren, DC Bar No. 503003

Zsa'Queria Martin, DC Bar No. 90043047

DEMOCRACY DEFENDERS FUND

600 Pennsylvania Avenue SE, No. 15180

Washington, DC 20003

(202) 594-9958

[andrew@democracydefenders.org](mailto:andrew@democracydefenders.org)

[zsaqueria@democracydefenders.org](mailto:zsaqueria@democracydefenders.org)

*Attorneys for Plaintiff*