



**Via Email**

March 30, 2020

Cybersecurity and Infrastructure Security Agency  
U.S. Department of Homeland Security  
Washington, D.C. 20528  
[NPPD.FOIA@dhs.gov](mailto:NPPD.FOIA@dhs.gov)

**Re: SUDDEN CHANGE IN POLICY TO INCLUDE WORKERS SUPPORTING THE OPERATION OF FIREARM OR AMMUNITION PRODUCT AS CRITICAL INFRASTRUCTURE ON ADVISORY LIST**

Dear Sir or Madam:

Brady hereby requests the Cybersecurity and Infrastructure Security Agency (“CISA”) produce the following records pursuant to the provisions of the Freedom of Information Act (“FOIA”), 5. U.S.C. § 522 *et seq.* This request pertains to the recent designation of the firearms and ammunition industry as a “National Critical Infrastructure Industry” during the COVID-19 outbreak, announced on or around March 29, 2020, after originally not including this industry on the advisory list. Brady demands documents explaining the factors that led to this decision, including the role of the gun lobby and/or the President’s reelection efforts, and whether Dr. Anthony Fauci or other public health experts signed off on this policy change.

For each of the below requests, we are requesting public source and non-public source documents, including, but not limited to, any email correspondence on government computers and devices or official communications sent from personal email accounts or personal devices, records of visits, or phone or video conferences, letters, memos, faxes:

**What led DHS and CISA to exempt gun businesses from general closures deemed necessary to prevent the spread of Coronavirus?**

1. Any and all communications between CISA leadership and/or employees related to the sudden addition of gun dealers on the list of critical infrastructures during the coronavirus outbreak;
2. Any and all communications between CISA leaders and/or employees and employees and/or leadership of other federal agencies related to the sudden addition of the firearms and ammunition industry on the list of critical infrastructures during the coronavirus outbreak. This request specifically includes, but is not limited to, communications within

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the Department of Homeland Security, which oversees the country's National Infrastructure Protection Plan;

3. Any and all communications regarding how the decision to designate or not designate firearms businesses as critical infrastructure could affect President Donald Trump's re-election efforts or politics;
4. All other documents, including drafts, related to the decision to designate the gun industry as a national critical infrastructure industry during the coronavirus outbreak; and
5. Any and all documents, communications, and materials analyzing whether firearms and ammunition industry business closings were unconstitutional;

**What role did the NRA and the gun industry play in the decision to exempt gun businesses from general closures deemed necessary to prevent the spread of Coronavirus?**

6. Any and all communications between CISA leadership and/or employees and non-government employees related to the critical infrastructures list and the firearms and ammunition industry. This request specifically includes any and all communications with representatives or employees of the gun industry or gun rights organizations, including but not limited to representatives from the following organizations and/or their affiliates: the National Rifle Association, the National Shooting Sports Foundation, the Gun Owners of America, Mark Barnes & Associates, and any firearms manufacturers, importers, distributors, or dealers;
7. Any and all communications between CISA leadership and/or employees and non-government employees related to the decision to include the firearms and ammunition industry in the critical infrastructures list with public health professionals and officials;
8. Any and all materials regarding the analysis that led CISA to designate guns and ammunition as a "National Critical Infrastructure Industry" during the coronavirus outbreak, specifically including, but not limited to, any and all analysis of public health effects of the decision;

**Did public health experts agree that it was in the interest in public safety to keep gun businesses open?**

9. Any and all communications with between CISA leadership and/or employees and Dr. Anthony Fauci and/or other public health experts regarding whether or not the gun industry should be included on the critical infrastructures list;
10. Any and all communications, documents, analyses, or reports regarding the extent to which conducting and not closing firearms industry businesses could or would spread the coronavirus, or increase the risks that the coronavirus would be spread, or have any other negative effects of public health;

11. Any and all communications, documents, analyses, or reports on any consideration CISA took of increased risks of shootings from panic firearms purchases (especially suicide, domestic violence and unintentional shootings), and any consideration of ways to minimize these risks (including warnings or trainings);

**Were other businesses and industries treated similarly to the gun industry?**

12. Any and all materials, documents, or guidelines explaining how the CISA selects businesses to include on its list of critical infrastructures during the coronavirus outbreak;
13. All communications between agents or representatives of any industry with CISA employees and non-government employees requesting that their industry be included on the critical infrastructures list.

**FORMAT AND PRODUCTION REQUESTS**

The term “document” shall mean all of the following, without limitation and by way of description: (a) all printed materials of every kind whatsoever; (b) all handwritten materials of every kind whatsoever; (c) all materials in electronic media regardless of the forms of such media, including emails; (d) all drafts of subject documents; (e) all documents referenced in subject documents, including those noted as exhibits and attachments, as well as those referenced in the bodies of subject documents or in footnotes to subject documents; (f) all documents, otherwise identified, but containing marginal or other annotations, handwritten or otherwise; (g) all documents in the form of transcripts of meetings and telephone conversations and memoranda of such meetings and telephone conversations, whether printed or handwritten; (h) to the extent not covered by the definitions in (a)-(g), all materials generated by or received by any government employee, consultant or other person having any relationship to the government; (i) to the extent not covered by the definitions in (a)-(h), all materials generated by any person not in the employ of the government, including but not limited to lawyers, foreign government officials of every level, other interested parties and non-parties to any communications on any relevant subject.

FOIA regulations provide that, if some parts of records containing the requested information are exempt from mandatory disclosure, then the non-exempt material shall be disclosed after the exempt material has been deleted. *See* U.S.C. § 522(b); 28 C.P.R. § 16.6. Accordingly, if you determine that some portion of a record that is otherwise responsive to this request is exempt, please provide a copy of all reasonably segregable, non-exempt portions of the record. If the requested records are not in the possession of the CISA or its agents, we request that CISA identify all federal agencies and/or other individuals and entities believed to possess such documents.

We further request that, pursuant to 5 U.S.C. § 522(a)(3)(B), CISA produce responsive documents in the native electronic format in which the document was created. To the extent that CISA is unable to produce the responsive documents in the requested format, we request

confirmation that the record does not exist in native format and production of the documents in the following format, listed in order of our preference: (1) PDF format; or (2) paper copy.

**We request that CISA produce these documents within twenty (20) working days as required by FOIA.** Additionally, in accordance with Section 7 of the OPEN Government Act of 2007, Pub. L. No. 110-175, and pursuant to Attorney General Holder's FOIA Memorandum of March 19, 2009, we request that CISA provide the individualized tracking number associated with this request should the request take longer than 10 days to process.

#### FEE WAIVER REQUEST

This request qualifies for a fee waiver because the requested information will be used for a public interest purpose and not for commercial purposes. Other federal agencies, including the ATF, have previously granted Brady (previously known as the Center to Prevent Handgun Violence) a fee waiver in similar circumstances. *See Center to Prevent Handgun Violence v. United States Department of Treasury*, 49 F.Supp.2d 3, 5 (D.D.C. 1999) (acknowledging the ATF's past grant of a fee waiver to Brady for a similar request of ATF records). Similarly, here, Brady asks that the CISA product the information requested and grant a full public interest fee waiver.

We appreciate your prompt consideration of this request. If you have any questions, or if we can be of any assistance in expediting this request, please contact us at (202) 370-8146.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tess Fardon', with a long horizontal flourish extending to the right.

Tess Fardon  
Legal Counsel, Programs  
Brady