



March 16, 2023

**Via Certified Mail**

The Honorable William McFarland  
Sergeant at Arms of the House of Representatives  
Room H-124 US Capitol  
United States House of Representatives  
Washington, DC 20515

**Re: Request for an Investigation of Potential 18 U.S.C. § 1505 Violations by David Brock, Facts First USA, and the Congressional Integrity Project**

Dear Mr. McFarland:

America First Legal Foundation (“AFL”) is a national, nonprofit legal foundation working to promote the rule of law, prevent executive overreach, protect due process and equal protection, and educate Americans about the individual rights guaranteed under the Constitution and laws of the United States. Our mission includes promoting government transparency and accountability by gathering official information, analyzing it, and disseminating it through reports, press releases, and media, including social media platforms, all to educate the public and to keep government officials accountable for their duty to faithfully execute, protect, and defend the Constitution and laws of the United States.

Recent reporting by the *New York Times* strongly suggests that the Congressional Integrity Project, a 501(c)(4) corporation,<sup>1</sup> is unlawfully coordinating efforts to influence, obstruct, or impede the due and proper exercise of the Congressional power of inquiry into influence peddling by the Biden family and the abuse of federal power by Biden Administration officials.<sup>2</sup> For example, on October 25, 2022, a “Confidential Memorandum” purportedly issued by David Brock solicited funds by promising to create “a robust external force – a SWAT team with additional capacity” to support the Biden White House and “allow President Biden to stay focused on his preferred

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<sup>1</sup> IRS Form 990 for Congressional Integrity Project, 2021, <https://bit.ly/3mRH09A>.

<sup>2</sup> “Whoever corruptly, or by threats of force, or by any threatening letter or communication influences, obstructs, or impedes or endeavors to influence, obstruct, or impede the due and proper exercise of the power of inquiry under which any inquiry or investigation is being had by either House, or any committee of either House or any joint committee of the Congress—Shall be fined under this title, imprisoned not more than 5 years or, if the offense involves international or domestic terrorism (as defined in section 2331), imprisoned not more than 8 years, or both.” 18 U.S.C. § 1505 (cleaned up).

messaging during 2023 and 2024 and on his reelection campaign” specifically to obstruct Congressional oversight.<sup>3</sup> It characterized congressional Republicans as “attackers” and promised to “ferociously” engage in “direct attacks” against the Congressional staff and Members investigating the Biden family’s foreign business entanglements and alleged tax fraud; to create “an environment of backlash” against oversight of Biden Administration corruption; and to coordinate “among like-minded groups for maximum pushback.”<sup>4</sup>

Mr. Brock’s plan is simplistically derivative. But in 2018 (for example), similar tactics were employed against Congressional staff and Members to influence, obstruct, and impede Congressional hearings regarding Brett Kavanaugh.<sup>5</sup> Therefore, there is ample reason to take seriously the promises made by Mr. Brock and his dark money affiliates of “direct attacks,” “backlash,” and coordinated “maximum pushback” against Members, staff, and witnesses.<sup>6</sup>

Here, Congressional oversight of Mr. Brock and his dark money network may also be appropriate to expose the breadth of and funding sources for the planned interference, obstruction, or disruption of House oversight activities. But as Sergeant of Arms, you have the power to make arrests and enforce the laws of the United States within the geographical area containing all House members, their staff, and committee hearing rooms.<sup>7</sup> Federal law grants you the same law enforcement authority as a member of the Capitol Police.<sup>8</sup> Intimidation of congressional witnesses or whistleblowers,<sup>9</sup> obstructing official congressional investigations,<sup>10</sup> or otherwise interfering with constitutional obligations and rights<sup>11</sup> are all crimes within your purview.

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<sup>3</sup> Confidential Memorandum, From David Brock to Interested Parties, re: Facts First USA: A SWAT Team to Counter Republican Congressional Investigations, at 3, (Oct. 25, 2022) (available at <https://bit.ly/3JmhHFA>).

<sup>4</sup> See *id.* at 8, 11-13.

<sup>5</sup> Elana Schor, *Democrats Create Chaos at Kavanaugh Hearing*, POLITICO (Sep. 4, 2018), <http://bit.ly/3FqkXPd>; see also Doug Stanglin & Caroline Simon, *‘Rise Up, Women!’: Angry Crowds Flood Capitol Hill to Protest Brett Kavanaugh Nomination*, USA TODAY (Sept. 28, 2018), <https://bit.ly/3Tl6pGn>; Jason Breslow, *The Resistance at the Kavanaugh Hearings: More Than 200 Arrests*, NPR (Sept. 8, 2018), <https://n.pr/3JFx4dM>.

<sup>6</sup> See generally Matt Viser and Michael Scherer, *Some Hunter Biden Allies Making Plans to go After his Accusers*, THE WASHINGTON POST (Dec. 10, 2022), <http://bit.ly/3TkCIW3>; Jonathan Turley, *Biden Allies Move to Intimidate Witnesses Ahead of GOP’s Coming Hunter Probe*, NY POST (Dec. 11, 2022), <https://bit.ly/3mXkihW>; see also Scott MacFarlane, *55 Arrests for Disrupting Congress in January*, NEWS4 WASHINGTON (Feb. 1, 2017), <http://bit.ly/3FpDc7k>.

<sup>7</sup> UNITED STATES H.R., *Sergeant at Arms*, <https://bit.ly/3yINagi>; UNITED STATES SEN., *Office of the Sergeant at Arms and Doorkeeper*, <https://bit.ly/40ckx6U> (each describing their respective Sergeant of Arms as the “chief law enforcement officer”); accord. U.S. CAPITOL POLICE, *Capitol Police Board*, <https://bit.ly/3JIpZsP>.

<sup>8</sup> Samuel Erman and Edward Kleinbard, *The House has the Power to Arrest People Who Defy its Orders*, THE WASHINGTON POST (May 15, 2019), <https://wapo.st/3JkAZeL>.

<sup>9</sup> 18 U.S.C. § 1512.

<sup>10</sup> 18 U.S.C. § 1505.

<sup>11</sup> 18 U.S.C. §§ 241, 242.

Consequently, an investigation of Mr. Brock and his affiliates, including but not limited to the Congressional Integrity Project and Facts First USA, is appropriate.

Thank you for your attention to this matter.

Sincerely,

s/ Reed D. Rubinstein

Reed D. Rubinstein

Senior Counselor and Director of Investigations

America First Legal Foundation