



**Homeland
Security**

Privacy Office, Mail Stop 0655

April 12, 2023

SENT VIA E-MAIL TO: foia@aflegal.org

Reed Rubinstein
America First Legal Foundation

Re: **DHS FOIA Case # 2022-HQFO-00179**
Office for Civil Rights and Civil Liberties (CRCL) FOIA Case # 2021-CRFO-00070

Dear Mr. Rubinstein:

This is the final response to your Freedom of Information Act (FOIA) request to the Office for Civil Rights and Civil Liberties (CRCL), Department of Homeland Security (DHS), dated July 22, 2021, and received by this office on October 22, 2021, as a referral with potentially responsive records. You are seeking records relating the Domestic Surveillance Strategy.

While processing your request, CRCL located potentially responsive records that fall under the purview of the Department of Homeland Security (DHS). Accordingly, after removing duplicates and non-responsive records, 389 pages of records were referred to this office for processing and direct response to you. This office received this referral on October 22, 2021.

One record (40 pages) that was referred is publicly available and is located at:
<https://www.dhs.gov/publication/strategic-intelligence-assessment-and-data-domestic-terrorism>
Publicly available records are not subject to the FOIA.

Of the remaining 349 pages, I have considered the foreseeable harm standard when reviewing the record set and have applied the FOIA exemptions as required by the statute and the Attorney General's guidance.¹ Of those pages, I have determined that portions of 64 of these pages are partially releasable, and 285 pages are withheld in their entirety pursuant to Title 5 U.S.C. § 552: (b)(5), (b)(6) and (b)(7)(E), FOIA Exemptions 5, 6 and (b)(7)(E).

FOIA Exemption 5 protects from disclosure those inter- or intra-agency documents that are normally privileged in the civil discovery context. The three most frequently invoked privileges are the deliberative process privilege, the attorney work-product privilege, and the attorney-client privilege. After carefully reviewing the responsive documents, we determined that portions of the responsive documents qualify for protection under the Deliberative Process Privilege.

¹ Department of Justice (DOJ), "Freedom of Information Act Guidelines," March 15, 2022, <https://www.justice.gov/ag/page/file/1483516/download>.

The deliberative process privilege protects the integrity of the deliberative or decision-making processes within the agency by exempting from mandatory disclosure opinions, conclusions, and recommendations included within inter-agency or intra-agency memoranda or letters. The release of this internal information would discourage the expression of candid opinions and inhibit the free and frank exchange of information among agency personnel.

FOIA Exemption 6 exempts from disclosure personnel or medical files and similar files the release of which would cause a clearly unwarranted invasion of personal privacy. This requires a balancing of the public's right to disclosure against the individual's right to privacy. The privacy interests of the individuals in the records you have requested outweigh any minimal public interest in disclosure of the information. Any private interest you may have in that information does not factor into the aforementioned balancing test.

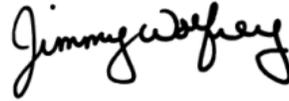
Exemption 7(E) protects records compiled for law enforcement purposes, the release of which would disclose techniques and/or procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law. I determined that disclosure of law enforcement information could reasonably be expected to risk circumvention of the law. Additionally, the techniques and procedures at issue are not well known to the public.

You have a right to appeal the above withholding determination. Should you wish to do so, you must send your appeal and a copy of this letter, within 90 days of the date of this letter, to: Privacy Office, Attn: FOIA Appeals, U.S. Department of Homeland Security, 245 Murray Lane, SW, Mail Stop 0655, Washington, D.C. 20528-0655, following the procedures outlined in the DHS FOIA regulations at 6 C.F.R. Part 5 § 5.8. Your envelope and letter should be marked "FOIA Appeal." Copies of the FOIA and DHS FOIA regulations are available at www.dhs.gov/foia.

If you need any further assistance or would like to discuss any aspect of your request, you may send an e-mail to foia@hq.dhs.gov, call 202-343-1743 or toll free 1-866-431-0486, or you may contact our FOIA Public Liaison in the same manner. Additionally, you have a right to right to seek dispute resolution services from the Office of Government Information Services (OGIS) which mediates disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. If you are requesting access to your own records (which is considered a Privacy Act request), you should know that OGIS does not have the authority to handle requests made under the Privacy Act of 1974. You may contact OGIS as follows: Office of Government Information Services, National Archives and Records Administration, 8601

Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Sincerely,

A handwritten signature in black ink that reads "Jimmy Wolfrey". The signature is written in a cursive, flowing style.

Jimmy Wolfrey
Senior Director, FOIA Operations and Management

Enclosures: 64 pages