

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

AMERICA FIRST LEGAL FOUNDATION,
611 Pennsylvania Avenue SE #231
Washington, DC 20003

Plaintiff,

v.

DEPARTMENT OF JUSTICE,
950 Pennsylvania Avenue NW
Washington, DC 20530

DEPARTMENT OF STATE,
2201 C Street NW
Washington, DC 20520

DEPARTMENT OF HOMELAND SECURITY,
2707 Martin Luther King Jr Ave SE
Washington, DC 20528

Defendants

Civil Action No.: 23-1948

COMPLAINT

(For Violation of the Freedom of Information Act)

I. INTRODUCTION

1. On December 9, 2019, the FBI issued a subpoena for and took possession of Hunter Biden's laptop from a Delaware computer store owner.

2. On May 20, 2020, the Senate Homeland Security and Governmental Affairs Committee voted to subpoena a lobbying firm that worked with Burisma, a

Ukrainian company that paid Hunter Biden to serve on its board. *See U.S. Senate Committee Issues Subpoena in Probe of Hunter Biden's Ukraine Ties*, RADIO FREE EUROPE / RADIO LIBERTY (May 21, 2020), <https://bit.ly/3jLR76n>.

3. On July 13, 2020, then-Minority Leader Schumer, Sen. Mark Warner, Speaker Pelosi, and Rep. Adam Schiff sent a letter with a classified attachment to the FBI claiming that Congress was the subject of a Russian disinformation campaign. The classified attachment included unclassified elements that, among other things, attempted to tie the Senate investigation into the Biden family's financial deals to Russian disinformation. Those elements were then leaked to the press. *See Letter from Sen. Charles E. Grassley, Ranking Member, and Sen. Ron Johnson, S. Comm. on the Judiciary to Merrick Garland, Attorney General and Christopher Wray, Director, Federal Bureau of Investigation*, (Aug. 25, 2022), *at* n.6, https://www.grassley.senate.gov/imo/media/doc/grassley_johnson_to_fbi_-_august_2020_briefing.pdf (*citing* Letter from Senator Ron Wyden, Ranking Member S. Comm. on Fin., and Ranking Member Gary Peters, S. Comm. on Homeland Sec. and Governmental Aff. to Chairman Grassley, S. Comm. on Fin., and Chairman Ron Johnson, S. Comm. on Homeland Sec. and Governmental Aff. (July 16, 2020))).

4. On July 15, 2020, FBI Supervisory Special Agent Elvis M. Chan offered Twitter temporary security clearances “30 days out from the election.” *See* Michael Shellenberger,, (@michaelshellenberger), TWITTER, (Dec. 19, 2022, 11:09 AM), bit.ly/3Wl8anx (last visited Jun. 29, 2023).

5. On July 16, 2020, then-Ranking Member Peters and then-Ranking Member Wyden requested a briefing from the FBI's Foreign Influence Task Force on matters purportedly relating to the Biden investigation. *See* Letter from Sen. Charles E. Grassley and Sen. Ron Johnson, August 25, 2022, *supra* n.6.

6. On July 23, 2020, Politico published an article alleging a “foreign disinformation plot to damage former vice president Joe Biden” based on “a farcical, long-debunked, hardcore right-wing conspiracy theory” of Biden family corruption. According to Politico, Democrat concerns were triggered by the prospect of “foreign interference in the 2020 race and fear of *another Kremlin-led effort to boost Trump’s reelection prospects.*” *See* Natasha Bertrand, *Democrats: Packets Sent to Trump Allies are Part of Foreign Plot to Damage Biden*, POLITICO (Jul. 23, 2020), <https://bit.ly/3j0yfcJ> (emphasis added).

7. This was one part of a much broader information operation by, *inter alia*, certain government officials to use the “Russian disinformation” claim for the purpose of falsely discrediting independent inquiries into the Bidens’ foreign entanglements. *See, e.g.*, Ryan Goodman and Asha Rangappa, *How Sen. Ron Johnson’s Investigation Became an Enabler of Russian Disinformation: Part I*, JUST SECURITY (Aug. 11, 2020), <https://bit.ly/3v9fdDZ>; *see also*, Asha Rangappa and Ryan Goodman, *Manafort’s Reward: Sen. Ron Johnson and the Ukraine Conspiracy Investigation: Part II*, JUST SECURITY (Aug. 24, 2020), <https://bit.ly/3FOnjXl>.

8. On August 6, 2020, FBI employees Nikki Floris and Bradley Benavides conducted the subject briefing. It consisted primarily of information known to Senate

investigators and certain other information unrelated to the Biden investigation. The briefing did not include an update on an investigation or even apparently a disclosure that the FBI had Hunter Biden's laptop in its possession. (*See* Letter from Sen. Charles E. Grassley and Sen. Ron Johnson, August 25, 2022, *supra.*)

9. Verified and verifiable derogatory information on Hunter Biden was falsely labeled by the FBI, a component of the defendant Department of Justice, as disinformation. *See* Letter from Sen. Charles E. Grassley, Ranking Member, and Sen. Ron Johnson, S. Comm. on the Judiciary to Merrick Garland, Attorney General and Christopher Wray, Director, Federal Bureau of Investigation, at 1 (July 25, 2022), <https://bit.ly/3SsmMA6>.

10. On or before October 13, 2020, the FBI warned Facebook to be on "high alert" relating to a "Russian propaganda dump," an apparent reference to the Biden laptop, which had been in the FBI's possession for almost one year. *See* Joseph A. Wulfsohn, *Mark Zuckerberg Tells Joe Rogan FBI Warned Facebook of 'Russian Propaganda' Before Hunter Biden Laptop Story*, Fox News (Aug. 25, 2022), <https://bit.ly/3FWxZ7S>.

11. FBI whistleblowers further allege that the FBI did not begin to examine the laptop's contents until after the 2020 presidential election. *See* Brianna Herlihy, *FBI Met Weekly with Big Tech Ahead of the 2020 Election, Agent Testifies*, FOX NEWS (Dec. 3, 2022), <https://fxn.ws/3j6Hatr>; *See also*, *Letter from Sen. Ron Johnson to the Hon. Michael E. Horowitz* at 2 (Aug. 23, 2022) (cleaned up), <https://bit.ly/3WfIhFk>.

12. On October 14, 2020, the New York Post reported strong evidence, in the form of emails from the laptop hard drive, of quid-pro-quo political corruption and influence peddling by then-candidate and former Vice President Joe Biden. The emails demonstrated that in or about April 2014, Hunter Biden, a person without any energy industry background or expertise whatsoever, was given a board seat by a Ukrainian gas company called Burisma. Burisma made \$83,333 payments monthly to Hunter Biden's company. Hunter Biden reportedly received \$1.5 million in total. Also, Burisma appears to have paid an additional \$1.5 million to a Hunter Biden business associate. *See Devon Archer, Mattathias Schwartz, The National Archives Wants to Release Hundreds of Pages of Emails about Hunter Biden and Burisma — and the White House Won't Say Whether It Will Let It Happen*, INSIDER (Dec. 14, 2022), bit.ly/3PJ5620.

13. In turn, Hunter Biden introduced then-Vice President Biden to a top Burisma executive. *Id.* Shortly thereafter, Joe Biden pressured Ukrainian government officials into firing a prosecutor investigating Burisma by threatening to cancel a \$1 billion U.S. loan guarantee. *See Emma-Jo Morris and Gabrielle Fonrouge, Smoking-gun email reveals how Hunter Biden introduced Ukrainian businessman to VP dad*, The New York Post (Oct. 14, 2020), <https://bit.ly/3HDUUpE>.

14. On October 15, 2020, the Hill linked Hunter Biden's laptop to an alleged Russian influence campaign to pass misinformation to President Trump. Citing an anonymous source, the Hill reported, "Several senior administration officials, including Attorney General William Barr, FBI Director Christopher Wray and White

House counsel Pat Cipollone ‘all had common understanding’ that Russia was targeting the president’s personal lawyer.” See Justine Coleman, *Intelligence officials warned Trump that Giuliani was target of Russian influence campaign: report*, The Hill (Oct. 15, 2020), <https://bit.ly/3WzHaQV>.

15. On October 15, 2020, NBC reported that “Federal investigators are examining whether emails allegedly describing activities by Joe Biden and his son Hunter and found on a laptop at a Delaware repair shop are linked to a foreign intelligence operation” based on claims made by “two people familiar with the matter”; and that the evidence of Biden corruption was “greeted with widespread skepticism.” See Ken Dilanian, *Feds examining whether alleged Hunter Biden emails are linked to a foreign intel operation. One email, which has not been confirmed to be authentic, suggested a meeting between Joe Biden and a rep from a Ukraine firm that once paid his son Hunter*, NBC News (Oct. 15, 2020), <https://bit.ly/3BOh5FZ>.

16. On October 16, 2020, CNN reported, under six bylines, that “US authorities are investigating whether the published emails that purport to detail the business dealings of Joe Biden’s son in Ukraine and China are connected to an ongoing Russian disinformation effort targeting the former vice president’s campaign, a US official and a congressional source briefed on the matter said.” See Marshall Cohen, Zachary Cohen, Michael Warren, Evan Perez, Alex Marquardt, and Mark Morales, *US authorities investigating if recently published emails are tied to Russian disinformation effort targeting Biden*, CNN (Oct. 16, 2020), <https://bit.ly/3PGVVP> TCNN.) It declared that “Giuliani has openly coordinated with a known Russian

agent to promote disinformation about the Bidens” and that “[t]he FBI is leading the investigation.” *Id.*

17. Also, on October 16, 2020, House Intelligence Committee Chairman Adam Schiff claimed that Hunter Biden’s laptop was a Russian disinformation campaign. *See* Adam Shaw, *Adam Schiff claims Hunter Biden email stories come from the Kremlin*, FOX NEWS (Oct. 17, 2020), <https://bit.ly/3V5Lczg>.

18. “We know that this whole smear on Joe Biden comes from the Kremlin,” Schiff said, “That’s been clear for well over a year now that they’ve been pushing this false narrative about this vice president and his son. Clearly, the origins of this whole smear are from the *Kremlin*, and the president is only too happy to have *Kremlin* help and try to amplify it.” Wolf Blitzer, @CNNSitRoom, TWITTER, CNN.COM (Oct. 16, 2020), bit.ly/3NxGEQB (*emphasis added*).

19. Also on October 16, 2020, a Twitter executive noted “well-timed briefings from Gov’t sources...which would support an assessment that [the laptop is] neither whistleblower nor dissident content.” *See* Michael Shellenberger, (@michaelshellenberger), TWITTER, (Dec. 19, 2022, 11:09 AM), bit.ly/3Wl8anx (last visited Jun. 29, 2022).

20. Former Intelligence Official Baker insisted on an internal email that the Hunter Biden laptop evidence was faked and/or hacked, *See* Michael Shellenberger (@michaelshellenberger), TWITTER, (Dec. 19, 2022, 11:09 AM), bit.ly/3Wl8anx, and reportedly, reached out to Matthew Perry in the FBI’s Office of General Counsel to coordinate a response. *Id.* at 39.

21. On October 19, 2020, Politico released a letter from 51 former intelligence officials, including political partisans John Brennan, Jim Clapper, and Michael Hayden, alleging that “the arrival on the US political scene of emails purportedly belonging to Vice President Biden’s son Hunter, much of it related to his time serving on the Board of the Ukrainian gas company Burisma, has all the classic earmarks of a Russian information operation.” The 51 former intelligence officials further alleged that “For the Russians at this point, with Trump down in the polls, there is incentive for Moscow to pull out the stops to do anything possible to help Trump win and/or to weaken Biden should he win. A ‘laptop op’ fits the bill, as the publication of the emails are clearly designed to discredit Biden.” The officials concluded that “Our view that the Russians are involved in the Hunter Biden email issue” was shared by “*Executive Branch departments and agencies [and] It is high time that Russia stops interfering in our democracy.*” Clapper, Brennan, et al, *Public Statement on the Hunter Biden Emails*, Politico (Oct. 19, 2020), <https://bit.ly/3FPVfnV>. (Emphasis in original).

22. According to a December 2020 declaration by Twitter’s “Head of Site Integrity”:

[F]ederal law enforcement agencies communicated that they expected “hack-and-leak operations” by state actors might occur in the period shortly before the 2020 presidential election, likely in October. I was told in these meetings that the intelligence community expected that individuals associated with political campaigns would be subject to hacking attacks and that material obtained through those hacking attacks would likely be disseminated over social media platforms, including Twitter. These expectations of hack-and-leak operations were discussed throughout 2020. I also learned in these meetings that there were rumors that a hack-and-leak operation would involve Hunter Biden.

See Robert K. Kelner Brendan Parets Elizabeth Upton COVINGTON & BURLING LLP Letter to Jeffrey S. Jordan, Federal Election Comm. (August 21, 2020), Exhibit A, (Declaration of Yoel Roth ¶11, FEC MUR7827 (Dec. 17, 2020), <https://bit.ly/3PGUDUZ>).

23. On April 2, 2021, CBS reported that, “Months after it was alleged that a laptop revealed Hunter Biden's business interests in China and Ukraine, the president's son tells Tracy Smith that the laptop "could be" his.” See CBS Sunday Morning @CBSSunday, (April 2, 2021, 7:42 AM), TWITTER, bit.ly/445aVNB (last visited Jun. 29, 2023).

24. On March 16, 2022, the New York Times reported that the contents of Hunter Biden laptop were authentic. See Katie Benner, Kenneth P. Vogel and Michael S. Schmidt, *Hunter Biden Paid Tax Bill, but Broad Federal Investigation Continues*, THE NEW YORK TIMES (Mar. 16, 2022), <https://bit.ly/3PuwUHf>.

25. Nearly four out of five Americans, or 79 percent, believe that had there been “truthful” coverage of the Hunter Biden laptop, it would have changed the outcome of the 2020 presidential election. See Bruce Golding, *79% Say ‘Truthful’ Coverage of Hunter Biden’s Laptop Would Have Changed 2020 Election*, THE NEW YORK POST (Aug. 26, 2022), <https://bit.ly/3Vm6SaC>; see also Jerry Dunleavy, *Barr says Hunter Biden Russian Disinformation Claims ‘Probably Affected’ Election Outcome*, THE WASHINGTON EXAMINER (Mar. 22, 2022), <https://bit.ly/3jqg00l>.

26. On April 20, 2023, the House Judiciary Committee revealed that the letter from 51 former intelligence officials, alleging that “the arrival on the US political scene of emails purportedly belonging to Vice President Biden’s son Hunter, much of it related to his time serving on the Board of the Ukrainian gas company Burisma, has all the classic earmarks of a Russian information operation,” was the product of the Biden campaign through testimony from a former Biden campaign official. *See* Press Release, *New Testimony Reveals Secretary Blinken and Biden Campaign Behind the Infamous Public Statement on the Hunter Biden Laptop*, H. COMM. ON THE JUDICIARY (Apr. 20, 2023), <https://bit.ly/41VyVks>.

27. On May 10, 2023, the House Committee on Oversight and Accountability revealed evidence from subpoenaed bank documents showing that the Biden family, their associates, and their companies received over \$10 million from foreign nationals and their related companies. *See* Press Release, *Comer Reveals New Evidence in Biden Family’s Influence Peddling Schemes*, H. COMM. ON OVERSIGHT AND ACCOUNTABILITY (May 10, 2023), <https://bit.ly/3Pwiit9>.

28. 50 U.S.C. § 3093(f) expressly prohibits the intelligence community, including the FBI, from using covert actions intended to influence the U.S. political process:

(f) Prohibition on covert actions intended to influence United States political processes, etc. No covert action may be conducted which is intended to influence United States political processes, public opinion, policies, or media.

50 USCS § 3093

II. AFL’S FOIA TO THE DEPARTMENT OF JUSTICE

29. On March 25, 2022, America First Legal Foundation (“AFL”) filed a Freedom of Information Act request on March 25, 2022, for Department of Justice, (DOJ) communications about Hunter or Hunter Biden for a time period subsequent to February 21, 2022. *See Exhibit 1, copy of AFL’s March 25, 2022, FOIA to DOJ Office of Information Policy (“OIP”).*

30. On April 18, 2022, OIP acknowledged AFL’s FOIA and identified it as U.S. Department of Justice FOIA-2022-00973:

The records you seek require a search in and/or consultation with another Office, and so your request falls within unusual circumstances. See 5 U.S.C. 552(a)(6)(B)(i) - (iii) (2018). Because of these unusual circumstances, we need to extend the time limit to respond to your request beyond the ten additional days provided by the statute.

See Exhibit 2, Acknowledgment Correspondence of April 18, 2022, from OIP at DOJ (emphasis added).

31. On April 20, 2022, AFL followed up via email correspondence to OIP at and explained that because it limited its request to a handful of custodians, for a limited time period, and only requested two search terms, there was a lack of clarity on the use of the complex track for this request.

AFL’s March 25th request provided a narrow set of custodians, requested documents that contained only two search terms, and provided a short time frame of February 1, 2022, to the date the request is processed for responsive documents.

Can the Department please provide additional clarity explaining why AFL’s request should be placed in the complex track? The custodians who are likely to hold responsive records are all located in offices for which the Office of Information Policy has control of the custodians’ records. AFL provided a limited timeframe and only requested records containing two search terms. The narrow nature of the request should not trigger “unusual circumstances” and should not be placed in the Office of Information Policy’s complex track.

See Exhibit 3, copy of AFL’s April 20, 2022, Email correspondence to OIP.

32. On April 27, 2022, OIP responded and explained that the search would be deemed complex because it involved more than one agency. *See Exhibit 4, Copy of first April 27, 2022, Email from OIP.*

33. Also on April 27, 2022, OIP contacted AFL and requested whether AFL would consider further narrowing its request to one search term, (AFL had already agreed to narrow to eliminate any clippings or news articles returned as part of a search), explaining the search came back with an estimate of 8,000 emails, which would double if both terms were search. *See Exhibit 5, Copy of second April 27, 2022, Email from OIP and follow up Emails of May 3, 2022, correspondences.*

34. On May 3, 2022, OIP followed up again with AFL, asking for the narrowing to one term, ["Hunter Biden"] to which AFL affirmatively responded, "yes," explaining that it agreed to narrowing the search to the one term, "Hunter Biden." *See Id.*

35. Over a year later, with no response, on May 18, 2023, AFL sent a follow up request to OIP requesting a status update:

I am writing to follow up on this now older request, [Pending Freedom of Information Act Request, FOIA-2022-00973](#). It was placed on the Complex Track back on 4/27/22. We then received separate correspondence on April 27, 2022 seeking to narrow the request and follow up correspondence on May 3, 2022 seeking our consent to narrow the Request, so we agreed to "Hunter Biden" rather than just "Hunter" in the two search terms of our Request.

See Exhibit 6, Copy of Email correspondence to OIP on May 18, 2023.

36. On the same day, May 18, 2023, OIP responded promptly, and curtly, that, "The records search for your request is still ongoing at this time." *See Exhibit 7, Copy of Email Correspondence from OIP on May 18, 2022.*

37. Despite its efforts to work with OIP, AFL received an interim response over a year ago on April 27, 2022, first explaining that that it had placed AFL's request in its complex processing queue, and then OIP stating that it anticipated an estimate of "8,000" potentially responsive documents to the March 25, 2021, FOIA, if AFL agreed to narrow the request. *See Exhibits 4 & 5.*

38. Despite AFL agreeing to significantly narrow the scope of its request, DOJ has continued to delay and to date, no response, rolling production or otherwise has been received.

39. AFL's request is not overly broad or unduly burdensome. In its initial request, AFL only requested two search terms, a very narrow timeframe at the time: "February 1, 2022, to the date this item is processed" in a FOIA itself dated and sent on March 25, 2022. *See Exhibit 1.*

40. Despite AFL's good faith efforts to narrow its request, DOJ has not produced anything, and most recently, on May 18, 2023, stated that (a search previously identified as potentially 8000 pages), was '*still ongoing.*' *See Exhibits 5 and 7.*

41. To date, DOJ has not produced any records requested by AFL.

42. DOJ has prevented AFL and the public from obtaining information vital to current and ongoing public debate of these critical matters in a timely fashion.

43. The primary value of AFL's requested information lies in the near "real time" transparency it will provide to inform the ongoing debate on the topic. While information gained months or (more likely) years from now may still be of historical

value, stale information is of little value in these circumstances. *Payne Enterprises, Inc. v. United States*, 837 F.2d 486, 494 (D.C. Cir. 1988).

44. Due to the political sensitivity of the requested records and based on AFL's knowledge and belief of the Biden Administration's operating procedures with respect to processing FOIA requests from non-ideologically aligned requestors, AFL is concerned that DOJ political appointees may be overseeing, supervising, and/or delaying the processing of AFL's request to keep the facts from public exposure and to prevent public scrutiny of controversial Biden Administration policies.

III. AFL's FOIA TO THE DEPARTMENT OF STATE

45. On March 25, 2022, AFL filed a Freedom of Information Act request for records related to the role of the Department of State regarding any communications about Hunter or Hunter Biden for a time period subsequent to February 21, 2022. See Exhibit 8, copy of AFL's March 25, 2022, FOIA to the Department of State ("State").

46. On March 28, 2022, State acknowledged the Request from AFL and assigned it a Reference Number F-2022-06504. See Exhibit 9, copy of State's Acknowledgement of the Subject FOIA.

47. State averred that it placed this Subject Request in "the complex processing track where it will be processed as quickly as possible" citing CFR § 171.11(h). *Id.*

48. State explained that "this Office will not be able to respond within 20 days due to "unusual circumstances." *Id.* (citing 5 U.S.C. § 552 (a)(6)(B)(i)-(iii)). It

alleged that “in this instance the unusual circumstances include the need to search from other Department offices or foreign service posts.” *Id.*

49. A year and two months later, on May 18, 2023, undersigned counsel wrote a request for follow up and offered to discuss narrowing the request in the event that it would be helpful. *See* Exhibit 10, copy of May 18, 2023, AFL correspondence to State.

50. On May 26, 2023, State’s FOIA Requester Center sent what appears to be an automated message not responding regarding the offer from undersigned counsel to discuss any narrowing of the request, but saying in relevant part, “The Office of Information Programs and Services electronic records system indicates this request remains in process. *See* Exhibit 11, copy of May 26, 2023, communication to AFL.

51. To date, State has not responded to the subject FOIA, nor has it made any attempt to confer with counsel, or to produce a single responsive document much less any larger production on any rolling basis.

IV. AFL’s FOIA TO THE DEPARTMENT OF HOMELAND SECURITY

52. On March 25, 2022, AFL filed a Freedom of Information Act request for records related to the role of the Department of Homeland Security (“DHS”) regarding any communications about Hunter or Hunter Biden for a time period subsequent to February 21, 2022. *See* Exhibit 12, copy of AFL’s March 25, 2022, FOIA to DHS.

53. On April 19, 2022, DHS acknowledged receipt of the Subject FOIA, assigned it a reference number 2022-HQFO-00797, and included the following

response, in relevant part, that, “DHS will invoke a 10-day extension for your request pursuant to 6 C.F.R. Part 5 § 5.5(c). If you would like to narrow the scope of your request, please contact our office. We will make every effort to comply with your request in a timely manner.” *See* Exhibit 13, DHS’ Acknowledgment E-mail Correspondence.

54. On April 20, 2022, AFL wrote to the FOIA Office at DHS requesting a status update on the Subject FOIA. *See* Exhibit 14, AFL Email of April 20, 2022.

55. That same day, at 2:06 PM, DHS responded to AFL explaining that the Request came back with “voluminous results” and requested a narrowing of the subject Request, stating further that “the Request will be placed on hold until we hear from you.” *See* Exhibit 15, DHS follow up on Request of April 20, 2022.

56. On that same day, April 20, 2022, at 3:16 PM, AFL promptly followed up in relevant part, with the following question: “Have you been able to review any of the data so far to confirm that 6.6 GB of data does not contain press clips or spot checked it to see that it does, in fact, contain significantly non-responsive material? If you have, we are willing to narrow the Request. However, without further information, we believe the request was sufficiently narrow[.]” *See* Exhibit 16, AFL response to DHS.

57. On Monday, April 25, 2022, at 10:21 AM, DHS wrote AFL, “Confirming Receipt. OCIO has started the file transfer of the records.” *See* Exhibit 17, DHS E-Mail to AFL on April 25, 2022.

58. Upon hearing nothing further from DHS, undersigned counsel requested the documents and a status update, over a year later, on May 18, 2023. To date, DHS has not responded. *See* Exhibit 18, AFL's E-Mail to DHS.

V. JURISDICTION AND VENUE

59. The Court has jurisdiction under 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. §§ 1331, 2201.

60. Venue is proper under 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1391(e).

VI. PARTIES

61. The Plaintiff, America First Legal Foundation, is a nonprofit organization working to promote the rule of law in the United States, prevent executive overreach, ensure due process and equal protection for all Americans, and encourage public knowledge and understanding of the law and individual rights guaranteed under the United States Constitution and the laws of the United States.

62. The Defendant, the Department of Justice, is an agency under 5 U.S.C. § 522(f), with its headquarters at 950 Pennsylvania Avenue NW, Washington, DC 20530. It has possession, custody, and control of the requested records, and has not produced a single page to date.

63. The Defendant, the Department of State, is an agency under 5 U.S.C. § 522(f), with its headquarters at 2201 C Street NW, Washington, DC 20520. It has possession, custody, and control of the requested records, and has not produced a single page to date.

64. The Defendant, Department of Homeland Security, is an agency under 5 U.S.C. § 522(f), with its headquarters at 2707 Martin Luther King Jr AVE SE, Washington, DC 20528. It has possession, custody, and control of the requested records, and has not produced a single page to date.

VII. CLAIMS FOR RELIEF

COUNT 1

For Violation of 5 U.S.C. § 552(a)

65. AFL repeats paragraphs 1-62.

66. AFL properly requested records within the possession, custody, and control of DOJ.

67. The requested records are not exempt from FOIA pursuant to 5 U.S.C. § 552(b)(5).

68. DOJ has continued to improperly withhold the responsive records under FOIA pursuant to 5 U.S.C. § 552(b)(5), with no further response to date.

69. Accordingly, AFL has exhausted its administrative remedies. *See* 5 U.S.C. § 552(a)(6)(C).

70. The Defendant DOJ has violated FOIA by failing to provide a lawful reason for the withholding of the responsive records and segregate exempt information in otherwise non-exempt responsive records.

71. AFL should be granted declaratory and injunctive relief under 5 U.S.C. § 552(a)(4)(B).

COUNT II

72. AFL repeats paragraphs 1-69.

73. AFL properly requested records within the possession, custody, and control of State.

74. The requested records are not exempt from FOIA pursuant to 5 U.S.C. § 552(b)(5).

75. State has improperly withheld the responsive records under FOIA pursuant to 5 U.S.C. § 552(b)(5) with no follow up response to date.

76. Accordingly, AFL has exhausted its administrative remedies. *See* 5 U.S.C. § 552(a)(6)(C).

77. The Defendant State has violated FOIA by failing to provide a lawful reason for the withholding of the responsive records and segregate exempt information in otherwise non-exempt responsive records.

78. AFL should be granted declaratory and injunctive relief under 5 U.S.C. § 552(a)(4)(B).

COUNT III

79. AFL repeats paragraphs 1-76.

80. AFL properly requested records within the possession, custody, and control of DHS.

81. The requested records are not exempt from FOIA pursuant to 5 U.S.C. § 552(b)(5).

82. DHS has improperly withheld the responsive records under FOIA pursuant to 5 U.S.C. § 552(b)(5) with no follow up response to date.

83. Accordingly, AFL has exhausted its administrative remedies. *See* 5 U.S.C. § 552(a)(6)(C).

84. The Defendant DHS has violated FOIA by failing to provide a lawful reason for the withholding of the responsive records and segregate exempt information in otherwise non-exempt responsive records.

85. AFL should be granted declaratory and injunctive relief under 5 U.S.C. § 552(a)(4)(B).

VIII. RELIEF REQUESTED

WHEREFORE, AFL respectfully requests this Court:

A. Declare that the records sought by the request, as described in the foregoing paragraphs, must be disclosed pursuant to 5 U.S.C. § 552.

B. Order the Defendants, Department of Justice, Department of State, and the Department of Homeland Security to conduct searches immediately for all records responsive to AFL's FOIA request and demonstrate that they employed search methods reasonably likely to lead to the discovery of responsive records.

C. Order the Defendants to produce by a date certain, all non-exempt records responsive to AFL's FOIA request.

D. Award AFL attorneys' fees and costs pursuant to 5 U.S.C. §552(a)(4)(E).

E. Grant AFL such other and further relief as this Court deems proper.

Dated: July 6, 2023

Respectfully submitted,

/s/ Michael Ding

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EXHIBIT ONE



March 25, 2022

Douglas Hibbard
Office of Information Policy
Department of Justice
6th Floor
441 G St. NW
Washington, D.C. 20530

Freedom of Information Act Request: Hunter Biden

Dear FOIA Officer:

America First Legal Foundation is a national, nonprofit organization working to promote the rule of law in the United States, prevent executive overreach, and ensure due process and equal protection for all Americans, all to promote public knowledge and understanding of the law and individual rights guaranteed under the Constitution and laws of the United States. To that end, we file Freedom of Information Act (FOIA) requests on issues of pressing public concern, then disseminate the information we obtain, making documents broadly available to the public, scholars, and the media. Using our editorial skills to turn raw materials into distinct work, we communicate with a national audience through traditional and social media platforms. AFL's email list contains over 25,000 unique addresses, our Twitter page has nearly 10,000 followers, the Twitter page of our Founder and President has over 83,800 followers, and we have another 18,000 followers on GETTR.

I. Custodians

- A. All political appointees and career civil servants with a grade of GS-14 or its equivalent and above in the Office of Public Affairs.
- B. All political appointees and career civil servants with a grade of GS-14 or its equivalent and above in the Office of Legislative Affairs.
- C. Attorney General Merrick B. Garland.
- D. Matt Klapper, Chief of Staff.
- E. Deputy Attorney General Lisa O. Monaco.

II. Requested Records

- A. All records containing the words “Hunter” or “Hunter Biden.” The relevant timeframe is February 1, 2022, to the date this item is processed. Please do not include news stories or press clippings.
- B. All records regarding the processing of this request.

III. Processing

The Department of Justice must comply with the processing guidance in the Attorney General’s Memorandum of March 15, 2022, <https://www.justice.gov/ag/page/file/1483516/download>. This means, among other things, the following:

- You may withhold responsive records only if: (1) the agency reasonably foresees that disclosure would harm an interest protected by one of the nine exemptions that FOIA enumerates; or (2) disclosure is prohibited by law.
- Information that might technically fall within an exemption should not be withheld unless you can identify a foreseeable harm or legal bar to disclosure. In case of doubt, openness should prevail.
- If you cannot make full disclosure of a requested record, then the FOIA requires that you consider whether partial disclosure of information is possible and take reasonable steps necessary to segregate and release nonexempt information.
- You must properly apply the foreseeable harm standard by confirming for and demonstrating to AFL that you have considered the foreseeable harm standard when reviewing records and applying FOIA exemptions.
- Redactions are disfavored as the FOIA’s exemptions are exclusive and must be narrowly construed. If a record contains information responsive to a FOIA request, then you must disclose the entire record, as a single record cannot be split into responsive and non-responsive bits. AFL’s request includes any attachments to those records or other materials enclosed with a record when transmitted. If an email is responsive to our request, then our request includes all prior messages sent or received in that email chain, as well as any attachments.
- Please search all locations and systems likely to have responsive records, regardless of format, medium, or physical characteristics. In conducting your

search, please give full effect to all applicable authorities and broadly construe our Item and your obligations to provide responsive records.

- Please search all relevant records or systems containing records regarding agency business. Do not exclude records regarding agency business contained in files, email accounts, or devices in the personal custody of your officials, such as personal email accounts or text messages. Records of official business conducted using unofficial systems or stored outside of official files are subject to the Federal Records Act and FOIA. It is not adequate to rely on policies and procedures that require officials to move records to official systems within a certain time. AFL has a right to records in those files even if material has not yet been moved to official systems or if officials have, by intent or through negligence, failed to meet their obligations.
- Please use all available tools to conduct a complete and efficient search for potentially responsive records. Many agencies have adopted the National Archives and Records Administration (“NARA”) Capstone program or similar policies. These provide options for searching emails and other electronic records in a manner reasonably likely to be more complete than just searching individual custodian files. For example, a custodian may have deleted a responsive email from his or her email program, but your agency’s archiving tools may capture that email under Capstone. At the same time, custodian searches are still necessary; you may not have direct access to files stored in .PST files, outside of network drives, in paper format, or in personal email accounts.
- If some portions of the requested records are properly exempt from disclosure, then please disclose any reasonably segregable non-exempt portions of the requested records. If a request is denied in whole, please state specifically why it is not reasonable to segregate portions of the record for release.
- Please take appropriate steps to ensure that records responsive to this request are not deleted before our Items are processed. If potentially responsive records are subject to potential deletion, including on a scheduled basis, please prevent deletion by instituting a litigation hold or other appropriate measures.

IV. Fee Waiver

Per 5 U.S.C. § 552(a)(4)(A)(iii), AFL requests a waiver of all search and duplication fees. These authorities provide for fee waivers when, as here, “disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.”

AFL's request concerns identifiable operations or activities of the government, and the information requested is likely to contribute significantly to the public understanding of the steps taken by the Biden Administration to use social media companies as tools of the state to make an end run around the First Amendment. The public has a right to know how the decision to attempt this was made, and by whom, as it could constitute an impeachable offense.

Also, AFL is a qualified non-commercial public education and news media requester. AFL is a new organization, but it has already demonstrated its commitment to the public disclosure of documents and creation of editorial content.

As a nonprofit organization primarily engaged in the dissemination of information to educate the public, AFL does not have a commercial purpose and the release of the information requested is not primarily in AFL's financial interest. Our status as a qualified non-commercial public education and news media requester has been recognized by the Departments of Defense, Education, Energy, Interior, Health and Human Services, and Homeland Security, and the Office of the Director of National Intelligence.

V. Production

To accelerate release of responsive records, AFL welcomes production on an agreed rolling basis. If possible, please provide responsive records in an electronic format by email. Alternatively, please provide responsive records in native format or in PDF format on a USB drive. Please send any responsive records being transmitted by mail to America First Legal Foundation, 611 Pennsylvania Ave SE #231, Washington, DC 20003.

If you have any questions about this request or believe further discussions regarding search and processing will speed the efficient production of records of interest to AFL, then please contact me at FOIA@aflegal.org. Finally, please contact us immediately if AFL's request for a fee waiver is not granted in full. Thank you in advance for your cooperation.

Sincerely yours,

/s/ Reed D. Rubinstein

Reed D. Rubinstein

America First Legal Foundation

EXHIBIT TWO



U.S. Department of Justice
Office of Information Policy
Sixth Floor
441 G Street, NW
Washington, DC 20530-0001

Telephone: (202) 514-3642

April 18, 2022

Reed Rubinstein
America First Legal

Re: FOIA-2022-00973
DRH:EAH:MSH

FOIA@aflegal.org

Dear Reed Rubinstein :

This is to acknowledge receipt of your Freedom of Information Act (FOIA) request dated and received in this Office on March 25, 2022 in which you requested records containing the words "Hunter" or "Hunter Biden" from February 1, 2022 to present.

The records you seek require a search in and/or consultation with another Office, and so your request falls within unusual circumstances. See 5 U.S.C. 552(a)(6)(B)(i)-(iii) (2018). Because of these unusual circumstances, we need to extend the time limit to respond to your request beyond the ten additional days provided by the statute. For your information, we use multiple tracks to process requests, but within those tracks we work in an agile manner, and the time needed to complete our work on your request will necessarily depend on a variety of factors, including the complexity of our records search, the volume and complexity of any material located, and the order of receipt of your request. At this time we have assigned your request to the complex track. In an effort to speed up our process, you may wish to narrow the scope of your request to limit the number of potentially responsive records so that it can be placed in a different processing track. You can also agree to an alternative time frame for processing, should records be located, or you may wish to await the completion of our records search to discuss either of these options. Any decision with regard to the application of fees will be made only after we determine whether fees will be implicated for this request.

We regret the necessity of this delay, but we assure you that your request will be processed as soon as possible. If you have any questions or wish to discuss reformulation or an alternative time frame for the processing of your request, you may contact this Office by telephone at the above number or you may write to the Office of Information Policy, United States Department of Justice, Sixth Floor, 441 G Street, NW, Washington, DC 20530-0001. Lastly, you may contact our FOIA Public Liaison, Valeree Villanueva, at the telephone number listed above to discuss any aspect of your request.

Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, Maryland 20740-6001; e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448.

Sincerely,
Initial Request Staff
Office of Information Policy
U.S. Department of Justice

EXHIBIT THREE



AFL FOIA <foia@aflegal.org>

FOIA-2022-00973

AFL FOIA <foia@aflegal.org>

Wed, Apr 20, 2022 at 3:00 PM

To: "Villanueva, Valeree A (OIP)" <Valeree.A.Villanueva@usdoj.gov>

Ms. Villanueva,

Thank you for your April 18th response to America First Legal Foundation's FOIA request (FOIA-2022-00973). In your April 18th response, your office stated that the Office of Information Policy would need additional time to process AFL's request because the records require a search in another office and assigned AFL's request to the complex track. AFL's March 25th request provided a narrow set of custodians, requested documents that contained only two search terms, and provided a short time frame of February 1, 2022, to the date the request is processed for responsive documents.

Can the Department please provide additional clarity explaining why AFL's request should be placed in the complex track? The custodians who are likely to hold responsive records are all located in offices for which the Office of Information Policy has control of the custodians' records. AFL provided a limited timeframe and only requested records containing two search terms. The narrow nature of the request should not trigger "unusual circumstances" and should not be placed in the Office of Information Policy's complex track.

AFL would be happy to participate in a phone call with your office to discuss its request.

Sincerely,
Tyler Sanderson
America First Legal Foundation

EXHIBIT FOUR



AFL FOIA <foia@aflegal.org>

FOIA-2022-00973

Villanueva, Valeree A (OIP) <Valeree.A.Villanueva@usdoj.gov>
To: AFL FOIA <foia@aflegal.org>

Wed, Apr 27, 2022 at 12:00 PM

Tyler Sanderson:

Good afternoon, this response pertains to your inquiry below regarding your organization's FOIA request FOIA-2022-00973. In this Office's acknowledgment letter, dated April 18, 2022, we advised when the request was received by this Office, the "unusual circumstance" the request falls within, the additional time to needed process the request, and our assignment of the request to the complex track. In the acknowledgment letter we also gave the option, to adjust your request, should your organization decide there is a portion of your request that could be adjusted; however, a requester is not obligated to take this action.

The FOIA statute provides federal agencies the ability to invoke "unusual circumstances" when a request falls into one of the following categories (1) searching in separate offices, (2) examining voluminous records, or (3) consulting with another agency/two or more agency components. In this instance FOIA-2022-00973 is seeking specified records of certain officials in the Offices of the Attorney General (OAG), Deputy Attorney General (ODAG), Legislative Affairs (OLA) and Public Affairs (PAO), since February 1, 2022. Please be advised that the Office of Information Policy (OIP) processes FOIA requests on behalf of the Department's senior management offices (Offices of the Attorney General, Deputy Attorney General, Associate General, Legal Policy, Legislative Affairs, and Public Affairs) and ourselves. Please note, OIP at times refers to these offices as our client offices. While OIP processes records for our client offices, this Office is separate from our client offices and neither maintains nor controls our client offices' records in our Office. In order to search our client offices we must search outside OIP and as such FOIA-2022-00973 falls within "unusual circumstances." Since we must search for records in the OAG, ODAG, OLA, and PAO this FOIA request is not a simple request, but a complex request due to the amount of time and work that will be needed to complete our processing of this request, as such the request has been assigned to the complex track. In this instance, the subject of this FOIA request was not the determining factor for invoking "unusual circumstances," but the searching needed to process the request. I hope my explanation helps clarify our reasoning for invoking "unusual circumstances" and placing this request in the complex track.

Should you wish to further communicate on your request, you may contact this Office.

Thank you,

Valeree Villanueva

Valeree Villanueva

Supervisory Government Information Specialist &

FOIA Public Liaison

Office of Information Policy

U.S. Department of Justice

202-514-3642

[Quoted text hidden]

EXHIBIT FIVE



AFL FOIA <foia@aflegal.org>

Pending Freedom of Information Act Request, FOIA-2022-00973

AFL FOIA <foia@aflegal.org>

Tue, May 3, 2022 at 3:23 PM

To: "Hibbard, Douglas (OIP)" <Douglas.Hibbard@usdoj.gov>

Hi Douglas, Sorry about the delayed response. Yes, we agree to the Hunter Biden set. Thank you

On Tue, May 3, 2022 at 2:08 PM Hibbard, Douglas (OIP) <Douglas.Hibbard@usdoj.gov> wrote:

I am following up the below email as we have not received a response to date.

From: Hibbard, Douglas (OIP)
Sent: Wednesday, April 27, 2022 10:08 AM
To: AFL FOIA <foia@aflegal.org>
Subject: Pending Freedom of Information Act Request, FOIA-2022-00973

Reed Rubinstein,

This concerns your pending Freedom of Information Act request seeking records containing the terms "Hunter" or "Hunter Biden" since February 1, 2022.

At this time, we have conducted two preliminary searches to get a sense of the volume of records potentially responsive to your request. One search was for the term "Hunter," which located over 14,000 records, and the other was for the term "Hunter Biden," which located slightly more than 8,000 records. (Note: both of these totals include "news stories and press clippings" that you have already excluded from the scope of your request.)

Based on a preliminary review of the "Hunter" results, some of those records clearly concern individuals other than Hunter Biden. Given this fact and the difference between the volume of records located between the two search terms, I am writing to inquire into your interest in narrowing the scope of your request to just the term "Hunter Biden." If you are so interested, you can indicate so in response to this email.

Please let me know if you have any questions on this matter.

Doug Hibbard
Chief, Initial Request Staff
Office of Information Policy

EXHIBIT SIX



AFL FOIA <foia@aflegal.org>

Pending Freedom of Information Act Request, FOIA-2022-00973

AFL FOIA <foia@aflegal.org>

Thu, May 18, 2023 at 11:41 AM

To: "Hibbard, Douglas (OIP)" <Douglas.Hibbard@usdoj.gov>

Cc: AFL FOIA <foia@aflegal.org>

Good morning Douglas,

I am writing to follow up on this now older request, [Pending Freedom of Information Act Request, FOIA-2022-00973](#). It was placed on the Complex Track back on 4/27/22. We then received separate correspondence on April 27, 2022 seeking to narrow the request and follow up correspondence on May 3, 2022 seeking our consent to narrow the Request, so we agreed to "Hunter Biden" rather than just "Hunter" in the two search terms of our Request.

Yet we have not received the records? Please provide the records and/or let us know the status.

Thank you!

Best,

Juli Haller

juli.haller@aflegal.org

[Quoted text hidden]

EXHIBIT SEVEN



AFL FOIA <foia@aflegal.org>

Pending Freedom of Information Act Request, FOIA-2022-00973

Hibbard, Douglas (OIP) <Douglas.Hibbard@usdoj.gov>
To: AFL FOIA <foia@aflegal.org>

Thu, May 18, 2023 at 11:47 AM

Juli,

The records search for your request is still ongoing at this time.

Doug

[Quoted text hidden]



March 25, 2022

U.S. Department of State
Office of Information Programs and Services
2201 C Street N.W., Suite B266
Washington, D.C. 20520-0000

Freedom of Information Act Request: Hunter Biden

Dear FOIA Officer:

America First Legal Foundation is a national, nonprofit organization working to promote the rule of law in the United States, prevent executive overreach, and ensure due process and equal protection for all Americans, all to promote public knowledge and understanding of the law and individual rights guaranteed under the Constitution and laws of the United States. To that end, we file Freedom of Information Act (FOIA) requests on issues of pressing public concern, then disseminate the information we obtain, making documents broadly available to the public, scholars, and the media. Using our editorial skills to turn raw materials into distinct work, we communicate with a national audience through traditional and social media platforms. AFL's email list contains over 25,000 unique addresses, our Twitter page has nearly 10,000 followers, the Twitter page of our Founder and President has over 83,800 followers, and we have another 18,000 followers on GETTR.

I. Custodians

- A. All political appointees and career civil servants with a grade of GS-14 or its equivalent and above in the Bureau of Global Public Affairs.
- B. All political appointees and career civil servants with a grade of GS-14 or its equivalent and above in the Bureau of Legislative Affairs.
- C. Secretary Antony J. Blinken.
- D. Suzy George, Chief of Staff

II. Requested Records

- A. All records containing the words "Hunter" or "Hunter Biden." The relevant timeframe is February 1, 2022, to the date this item is processed. Please do not include news stories or press clippings.

B. All records regarding the processing of this request.

III. Processing

The Department of State must comply with the processing guidance in the Attorney General's Memorandum of March 15, 2022, <https://www.justice.gov/ag/page/file/1483516/download>. This means, among other things, the following:

- You may withhold responsive records only if: (1) the agency reasonably foresees that disclosure would harm an interest protected by one of the nine exemptions that FOIA enumerates; or (2) disclosure is prohibited by law.
- Information that might technically fall within an exemption should not be withheld unless you can identify a foreseeable harm or legal bar to disclosure. In case of doubt, openness should prevail.
- If you cannot make full disclosure of a requested record, then the FOIA requires that you consider whether partial disclosure of information is possible and take reasonable steps necessary to segregate and release nonexempt information.
- You must properly apply the foreseeable harm standard by confirming for and demonstrating to AFL that you have considered the foreseeable harm standard when reviewing records and applying FOIA exemptions.
- Redactions are disfavored as the FOIA's exemptions are exclusive and must be narrowly construed. If a record contains information responsive to a FOIA request, then you must disclose the entire record, as a single record cannot be split into responsive and non-responsive bits. AFL's request includes any attachments to those records or other materials enclosed with a record when transmitted. If an email is responsive to our request, then our request includes all prior messages sent or received in that email chain, as well as any attachments.
- Please search all locations and systems likely to have responsive records, regardless of format, medium, or physical characteristics. In conducting your search, please give full effect to all applicable authorities and broadly construe our Item and your obligations to provide responsive records.
- Please search all relevant records or systems containing records regarding agency business. Do not exclude records regarding agency business contained in files, email accounts, or devices in the personal custody of your officials, such

as personal email accounts or text messages. Records of official business conducted using unofficial systems or stored outside of official files are subject to the Federal Records Act and FOIA. It is not adequate to rely on policies and procedures that require officials to move records to official systems within a certain time. AFL has a right to records in those files even if material has not yet been moved to official systems or if officials have, by intent or through negligence, failed to meet their obligations.

- Please use all available tools to conduct a complete and efficient search for potentially responsive records. Many agencies have adopted the National Archives and Records Administration (“NARA”) Capstone program or similar policies. These provide options for searching emails and other electronic records in a manner reasonably likely to be more complete than just searching individual custodian files. For example, a custodian may have deleted a responsive email from his or her email program, but your agency’s archiving tools may capture that email under Capstone. At the same time, custodian searches are still necessary; you may not have direct access to files stored in .PST files, outside of network drives, in paper format, or in personal email accounts.
- If some portions of the requested records are properly exempt from disclosure, then please disclose any reasonably segregable non-exempt portions of the requested records. If a request is denied in whole, please state specifically why it is not reasonable to segregate portions of the record for release.
- Please take appropriate steps to ensure that records responsive to this request are not deleted before our Items are processed. If potentially responsive records are subject to potential deletion, including on a scheduled basis, please prevent deletion by instituting a litigation hold or other appropriate measures.

IV. Fee Waiver

Per 5 U.S.C. § 552(a)(4)(A)(iii), AFL requests a waiver of all search and duplication fees. These authorities provide for fee waivers when, as here, “disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.”

AFL’s request concerns identifiable operations or activities of the government, and the information requested is likely to contribute significantly to the public understanding of the steps taken by the Biden Administration to use social media companies as tools of the state to make an end run around the First Amendment. The public has a right to know how the decision to attempt this was made, and by whom, as it could constitute an impeachable offense.

Also, AFL is a qualified non-commercial public education and news media requester. AFL is a new organization, but it has already demonstrated its commitment to the public disclosure of documents and creation of editorial content.

As a nonprofit organization primarily engaged in the dissemination of information to educate the public, AFL does not have a commercial purpose and the release of the information requested is not primarily in AFL's financial interest. Our status as a qualified non-commercial public education and news media requester has been recognized by the Departments of Defense, Education, Energy, Interior, Health and Human Services, and Homeland Security, and the Office of the Director of National Intelligence.

V. Production

To accelerate release of responsive records, AFL welcomes production on an agreed rolling basis. If possible, please provide responsive records in an electronic format by email. Alternatively, please provide responsive records in native format or in PDF format on a USB drive. Please send any responsive records being transmitted by mail to America First Legal Foundation, 611 Pennsylvania Ave SE #231, Washington, DC 20003.

If you have any questions about this request or believe further discussions regarding search and processing will speed the efficient production of records of interest to AFL, then please contact me at FOIA@aflegal.org. Finally, please contact us immediately if AFL's request for a fee waiver is not granted in full. Thank you in advance for your cooperation.

Sincerely yours,

/s/ Reed D. Rubinstein
Reed D. Rubinstein
America First Legal Foundation



AFL FOIA <foia@aflegal.org>

Ref: F-2022-06504, Freedom of Information Act Acknowledgement

A_FOIAacknowledgement@groups.state.gov <A_FOIAacknowledgement@groups.state.gov>

Mon, Mar 28, 2022 at
11:56 AM

To: FOIA@aflegal.org

****THIS EMAIL BOX IS NOT MONITORED, PLEASE DO NOT REPLY TO THIS EMAIL.****

Mr. Rubinstein:

This email acknowledges receipt of your March 25, 2022, Freedom of Information Act (FOIA) (5 U.S.C. § 552) request received by the U.S. Department of State, Office of Information Programs and Services on March 25, 2022, regarding all records that contain the words "Hunter" or "Hunter Biden" from February 1, 2022 to the date processing begins. Unless you advise otherwise, we will treat as non-responsive any compilations of publicly available news reports and any publicly available documents not created by the U.S. government, such as mass-distribution emails from news media. This Office assigned your request the subject reference number and placed it in the complex processing track where it will be processed as quickly as possible. See 22 CFR § 171.11(h). This Office grants your request for a fee waiver.

This Office will not be able to respond within the 20 days provided by the statute due to “unusual circumstances.” See 5 U.S.C. § 552(a)(6)(B)(i)-(iii). In this instance, the unusual circumstances include the need to search for and collect requested records from other Department offices or Foreign Service posts.

If you have any questions regarding your request, would like to narrow the scope or arrange an alternative time frame to speed its processing, or would like an estimated date of completion, please contact our FOIA Requester Service Center or our FOIA Public Liaison by email at FOIAstatus@state.gov or telephone at 202-261-8484. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, email at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

****THIS EMAIL BOX IS NOT MONITORED, PLEASE DO NOT REPLY TO THIS EMAIL.****



AFL FOIA <foia@aflegal.org>

Ref: F-2022-06504, Freedom of Information Act Acknowledgement

AFL FOIA <foia@aflegal.org>
To: FOIA Status <FOIAstatus@state.gov>
Cc: AFL FOIA <foia@aflegal.org>

Thu, May 18, 2023 at 1:03 PM

Good afternoon, I am writing to follow up on the status of F-2022-06504. We received acknowledgement on March 28, 2022. We can discuss narrowing the Request if that would be helpful. I also attach it to this email.

Thanks,

Juli

juli.haller@aflegal.org

----- Forwarded message -----

From: <A_FOIAacknowledgement@groups.state.gov>
Date: Mon, Mar 28, 2022 at 11:56 AM
Subject: Ref: F-2022-06504, Freedom of Information Act Acknowledgement
To: <FOIA@aflegal.org>

[Quoted text hidden]

 **FOIA.03.25.23 State Department Hunter Biden FOIA.pdf**
170K



AFL FOIA <foia@aflegal.org>

Ref: F-2022-06504, Freedom of Information Act Acknowledgement

FOIA Status <FOIAStatus@state.gov>
To: AFL FOIA <foia@aflegal.org>

Fri, May 26, 2023 at 9:28 AM

Good Morning,

This is in response to your email below regarding FOIA Case Control Number F-2022-06504.

The Office of Information Programs and Services' electronic records system indicates this request remains in process. Mr. Rubinstein will be notified of the results of the Department's search and review efforts in response to this request as soon as that information becomes available.

Please be advised that the Department currently has a backlog of FOIA requests and is working through it as quickly as possible. As the Department continues to work through its backlog of requests, it is mindful of its accountability to the public.

Your continued patience is greatly appreciated.

Regards,

U.S. Department of State
FOIA Requester Service Center

[Quoted text hidden]



March 25, 2022

U.S. Department of Homeland Security
Privacy Office, Mail Stop 0655
2707 Martin Luther King Jr. AVE SE
Washington, DC 20528-065

Freedom of Information Act Request: Hunter Biden

Dear FOIA Officer:

America First Legal Foundation is a national, nonprofit organization working to promote the rule of law in the United States, prevent executive overreach, and ensure due process and equal protection for all Americans, all to promote public knowledge and understanding of the law and individual rights guaranteed under the Constitution and laws of the United States. To that end, we file Freedom of Information Act (FOIA) requests on issues of pressing public concern, then disseminate the information we obtain, making documents broadly available to the public, scholars, and the media. Using our editorial skills to turn raw materials into distinct work, we communicate with a national audience through traditional and social media platforms. AFL's email list contains over 25,000 unique addresses, our Twitter page has nearly 10,000 followers, the Twitter page of our Founder and President has over 83,800 followers, and we have another 18,000 followers on GETTR.

I. Custodians

- A. All political appointees and career civil servants with a grade of GS-14 or its equivalent and above in the Office of Public Affairs.
- B. All political appointees and career civil servants with a grade of GS-14 or its equivalent and above in the Office of Legislative Affairs.
- C. Secretary Alejandro Mayorkas.
- D. Kristie Canegallo, Chief of Staff.
- E. Assistant Secretary Marsha Espinosa.
- F. Assistant Secretary Alice Lugo.

II. Requested Records

- A. All records containing the words “Hunter” or “Hunter Biden.” The relevant timeframe is February 1, 2022, to the date this item is processed. Please do not include news stories or press clippings.
- B. All records regarding the processing of this request.

III. Processing

The Department of Homeland Security must comply with the processing guidance in the Attorney General’s Memorandum of March 15, 2022, <https://www.justice.gov/ag/page/file/1483516/download>. This means, among other things, the following:

- You may withhold responsive records only if: (1) the agency reasonably foresees that disclosure would harm an interest protected by one of the nine exemptions that FOIA enumerates; or (2) disclosure is prohibited by law.
- Information that might technically fall within an exemption should not be withheld unless you can identify a foreseeable harm or legal bar to disclosure. In case of doubt, openness should prevail.
- If you cannot make full disclosure of a requested record, then the FOIA requires that you consider whether partial disclosure of information is possible and take reasonable steps necessary to segregate and release nonexempt information.
- You must properly apply the foreseeable harm standard by confirming for and demonstrating to AFL that you have considered the foreseeable harm standard when reviewing records and applying FOIA exemptions.
- Redactions are disfavored as the FOIA’s exemptions are exclusive and must be narrowly construed. If a record contains information responsive to a FOIA request, then you must disclose the entire record, as a single record cannot be split into responsive and non-responsive bits. AFL’s request includes any attachments to those records or other materials enclosed with a record when transmitted. If an email is responsive to our request, then our request includes all prior messages sent or received in that email chain, as well as any attachments.
- Please search all locations and systems likely to have responsive records, regardless of format, medium, or physical characteristics. In conducting your

search, please give full effect to all applicable authorities and broadly construe our Item and your obligations to provide responsive records.

- Please search all relevant records or systems containing records regarding agency business. Do not exclude records regarding agency business contained in files, email accounts, or devices in the personal custody of your officials, such as personal email accounts or text messages. Records of official business conducted using unofficial systems or stored outside of official files are subject to the Federal Records Act and FOIA. It is not adequate to rely on policies and procedures that require officials to move records to official systems within a certain time. AFL has a right to records in those files even if material has not yet been moved to official systems or if officials have, by intent or through negligence, failed to meet their obligations.
- Please use all available tools to conduct a complete and efficient search for potentially responsive records. Many agencies have adopted the National Archives and Records Administration (“NARA”) Capstone program or similar policies. These provide options for searching emails and other electronic records in a manner reasonably likely to be more complete than just searching individual custodian files. For example, a custodian may have deleted a responsive email from his or her email program, but your agency’s archiving tools may capture that email under Capstone. At the same time, custodian searches are still necessary; you may not have direct access to files stored in .PST files, outside of network drives, in paper format, or in personal email accounts.
- If some portions of the requested records are properly exempt from disclosure, then please disclose any reasonably segregable non-exempt portions of the requested records. If a request is denied in whole, please state specifically why it is not reasonable to segregate portions of the record for release.
- Please take appropriate steps to ensure that records responsive to this request are not deleted before our Items are processed. If potentially responsive records are subject to potential deletion, including on a scheduled basis, please prevent deletion by instituting a litigation hold or other appropriate measures.

IV. Fee Waiver

Per 5 U.S.C. § 552(a)(4)(A)(iii), AFL requests a waiver of all search and duplication fees. These authorities provide for fee waivers when, as here, “disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.”

AFL's request concerns identifiable operations or activities of the government, and the information requested is likely to contribute significantly to the public understanding of the steps taken by the Biden Administration to use social media companies as tools of the state to make an end run around the First Amendment. The public has a right to know how the decision to attempt this was made, and by whom, as it could constitute an impeachable offense.

Also, AFL is a qualified non-commercial public education and news media requester. AFL is a new organization, but it has already demonstrated its commitment to the public disclosure of documents and creation of editorial content.

As a nonprofit organization primarily engaged in the dissemination of information to educate the public, AFL does not have a commercial purpose and the release of the information requested is not primarily in AFL's financial interest. Our status as a qualified non-commercial public education and news media requester has been recognized by the Departments of Defense, Education, Energy, Interior, Health and Human Services, and Homeland Security, and the Office of the Director of National Intelligence.

V. Production

To accelerate release of responsive records, AFL welcomes production on an agreed rolling basis. If possible, please provide responsive records in an electronic format by email. Alternatively, please provide responsive records in native format or in PDF format on a USB drive. Please send any responsive records being transmitted by mail to America First Legal Foundation, 611 Pennsylvania Ave SE #231, Washington, DC 20003.

If you have any questions about this request or believe further discussions regarding search and processing will speed the efficient production of records of interest to AFL, then please contact me at FOIA@aflegal.org. Finally, please contact us immediately if AFL's request for a fee waiver is not granted in full. Thank you in advance for your cooperation.

Sincerely yours,

/s/ Reed D. Rubinstein

Reed D. Rubinstein

America First Legal Foundation



**Homeland
Security**

Privacy Office, Mail Stop 0655

April 19, 2022

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

Reed Rubinstein
611 Pennsylvania Ave SE #231
Washington, DC 20003

Re: **2022-HQFO-00797**

Dear Mr. Rubinstein:

This letter acknowledges receipt of your Freedom of Information Act (FOIA) request to the Department of Homeland Security (DHS), dated March 25, 2022, and to your request for a waiver of all assessable FOIA fees. Our office received your request on March 25, 2022. Specifically, you requested:

A. All records containing the words “Hunter” or “Hunter Biden.” The relevant timeframe is February 1, 2022, to the date this item is processed. Please do not include news stories or press clippings.

B. All records regarding the processing of this request.

Due to the increasing number of FOIA requests received by this office, we may encounter some delay in processing your request. Consistent with 6 C.F.R. Part 5 § 5.5(a) of the DHS FOIA regulations, the Department processes FOIA requests according to their order of receipt. Although DHS’ goal is to respond within 20 business days of receipt of your request, FOIA does permit a 10-day extension of this time period in certain circumstances under 6 C.F.R. Part 5 § 5.5(c). As your request seeks documents that will require a thorough and wide-ranging search, DHS will invoke a 10-day extension for your request pursuant to 6 C.F.R. Part 5 § 5.5(c). If you would like to narrow the scope of your request, please contact our office. We will make every effort to comply with your request in a timely manner.

You have requested a fee waiver. The DHS FOIA regulations at 6 C.F.R. Part 5 § 5.11(k) set forth six factors DHS must evaluate to determine whether the applicable legal standard for a fee waiver has been met: (1) Whether the subject of the requested records concerns “the operations or activities of the government,” (2) Whether the disclosure is “likely to contribute” to an understanding of government operations or activities, (3) Whether disclosure of the requested information will contribute to the understanding of the public at large, as opposed to the individual understanding of the requester or a narrow segment of interested persons, (4) Whether the contribution to public understanding of government operations or activities will be “significant,” (5) Whether the requester has a commercial interest that would be furthered by the requested disclosure, and (6) Whether the magnitude of any identified commercial interest to the requester is sufficiently large in comparison with the public interest in disclosure, that disclosure is primarily in the commercial interest of the requester.

Upon review of the subject matter of your request, and an evaluation of the six factors identified above, DHS has determined that it will conditionally grant your request for a fee waiver. The fee waiver

determination will be based upon a sampling of the responsive documents received from the various DHS program offices as a result of the searches conducted in response to your FOIA request. DHS will, pursuant to DHS FOIA regulations applicable to non-commercial requesters, provide two hours of search time and process the first 100 pages at no charge to you. If upon review of these documents, DHS determines that the disclosure of the information contained in those documents does not meet the factors permitting DHS to waive the fees, then DHS will at that time either deny your request for a fee waiver entirely or will allow for a percentage reduction in the amount of the fees corresponding to the amount of relevant material found that meets the factors allowing for a fee waiver. In either case, DHS will promptly notify you of its final decision regarding your request for a fee waiver and provide you with the responsive records as required by applicable law.

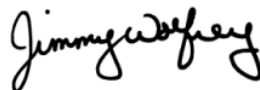
In the event that your fee waiver is denied, and you determine that you still want the records, provisions of the FOIA allow us to recover part of the cost of complying with your request. We shall charge you for records in accordance with the DHS FOIA regulations as they apply to non-commercial requesters. As a non-commercial requester you will be charged for any search time and duplication beyond the free two hours and 100 pages mentioned in the previous paragraph. You will be charged 10 cents per page for duplication and search time at the per quarter-hour rate (\$4.00 for clerical personnel, \$7.00 for professional personnel, \$10.25 for managerial personnel) of the searcher. In the event that your fee waiver is denied, we will construe the submission of your request as an agreement to pay up to \$25.00. This office will contact you before accruing any additional fees.

We have queried the appropriate component(s) of DHS for responsive records. If any responsive records are located, they will be reviewed for determination of releasability. Please be assured that one of the analysts in our office will respond to your request as expeditiously as possible. We appreciate your patience as we proceed with your request.

Your request has been assigned reference number **2022-HQFO-00797**. Please refer to this identifier in any future correspondence. The status of your FOIA request is now available online and can be accessed at: <https://foiarequest.dhs.gov/app/CheckStatus.aspx>, by using this FOIA request number.

If you have any questions, or would like to discuss this matter, please feel free to contact this office at 1-866-431-0486 or 202-343-1743.

Sincerely,

A handwritten signature in black ink, appearing to read "Jimmy Wolfrey". The signature is written in a cursive, slightly slanted style.

Jimmy Wolfrey
Senior Director, FOIA Operations and Management
(Acting)



AFL FOIA <foia@aflegal.org>

Status Update (FOIA 2022-HQFO--00797)

AFL FOIA <foia@aflegal.org>
To: FOIA <foia@hq.dhs.gov>

Wed, Apr 20, 2022 at 10:22 AM

Good morning,

Can you please provide a status update on America First Legal Foundation's FOIA request (2022-HQFO-00797) that was submitted on March 25, 2022? Thank you very much for your assistance.

Sincerely,

Tyler Sanderson
America First Legal Foundation



AFL Info <info@aflegal.org>

[ACTION NEEDED] Department of Homeland Security FOIA 2022-HQFO-00797

foia@hq.dhs.gov <foia@hq.dhs.gov>
To: info@aflegal.org

Wed, Apr 20, 2022 at 2:06 PM

Good Afternoon,

The program office (OCIO) that was tasked for your FOIA request came back with voluminous results. The file size was about 6.6 GB of data. We wanted to reach out to you to see if you'd be willing to narrow your request to more specific topic other than ("Hunter") **OR** ("Hunter Biden"). Adding a keyword using the "**AND**" Boolean operator would help narrow the request and tailor the search to a more specific records you are interested in.

We will place this case on hold until we receive a response from you.

Regards,

DHS Privacy Office
Disclosure & FOIA Program
STOP 0655
Department of Homeland Security
245 Murray Drive, SW
Washington, DC 20528-0655
Telephone: 1-866-431-0486 or 202-343-1743
Fax: 202-343-4011
Visit our [FOIA website](#)



AFL Info <info@aflegal.org>

[ACTION NEEDED] Department of Homeland Security FOIA 2022-HQFO-00797

AFL Info <info@aflegal.org>
To: foia@hq.dhs.gov

Wed, Apr 20, 2022 at 3:16 PM

Good afternoon,

Thank you for your email and the information. Have you been able to review any of the data so far to confirm that the 6.6 GB of data does not contain press clips or spot checked it to see that it does, in fact, contain significant non-responsive material? If you have, and there are legitimate concerns about a significant volume of non-responsive material hitting on your search, we are willing to narrow the request. However, without further information, we believe that the request was sufficiently narrow and 6.6 GB of data does not, on its face, seem overly broad or inclusive of non-responsive material.

Thank you,

America First Legal Foundation

[Quoted text hidden]



AFL Info <info@aflegal.org>

[ACTION NEEDED] Department of Homeland Security FOIA 2022-HQFO-00797

FOIA <FOIA@hq.dhs.gov>

Mon, Apr 25, 2022 at 10:21 AM

To: AFL Info <info@aflegal.org>, FOIA <FOIA@hq.dhs.gov>

Good Morning,

Confirming receipt. OCIO has started the file transfer of the records.

Regards,

DHS Privacy Office

Disclosure & FOIA Program

STOP 0655

Department of Homeland Security

2707 Martin Luther King Jr. AVE SE

Washington, DC 20528-065

Telephone: 1-866-431-0486 or 202-343-1743

Fax: 202-343-4011

Visit our FOIA website

From: AFL Info <info@aflegal.org>

Sent: Friday, April 22, 2022 1:55 PM

To: FOIA <FOIA@HQ.DHS.GOV>

Subject: Re: [ACTION NEEDED] Department of Homeland Security FOIA 2022-HQFO-00797

CAUTION: This email originated from outside of DHS. DO NOT click links or open attachments unless you recognize and/or trust the sender. Contact your component SOC with questions or concerns.

[Quoted text hidden]



AFL Info <info@aflegal.org>

[ACTION NEEDED] Department of Homeland Security FOIA 2022-HQFO-00797

AFL Info <info@aflegal.org>
To: FOIA <FOIA@hq.dhs.gov>
Cc: AFL FOIA <foia@aflegal.org>

Thu, May 18, 2023 at 11:14 AM

Good morning,

This is an older FOIA request ([Department of Homeland Security FOIA 2022-HQFO-00797](#)) and the last communication we got from DHS was on April 25, 2022, which confirmed receipt and that a transfer of the documents had begun, but we have yet to receive these documents.

Can you please send us the documents and update us?

Thank you!

Best regards,

Juli Haller

[Quoted text hidden]

CIVIL COVER SHEET

JS-44 (Rev. 11/2020 DC)

<p>I. (a) PLAINTIFFS AMERICA FIRST LEGAL FOUNDATION</p> <p>(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF <u>11001</u> (EXCEPT IN U.S. PLAINTIFF CASES)</p> <p>(c) ATTORNEYS (FIRMNAME, ADDRESS, AND TELEPHONE NUMBER) Juli Z. Haller, Michael Ding (AMERICA FIRST LEGAL FOUNDATION, 611 Pennsylvania Avenue SE #231, Washington, DC 20003, (202) 964-3721)</p>	<p>DEFENDANTS DEPARTMENT OF JUSTICE, DEPARTMENT OF STATE, DEPARTMENT OF HOMELAND SECURITY</p> <p>COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT <u>11001</u> (IN U.S. PLAINTIFF CASES ONLY) <small>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED</small></p> <p>ATTORNEYS (IF KNOWN)</p>
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<p>II. BASIS OF JURISDICTION (PLACE AN x IN ONE BOX ONLY)</p> <p><input type="radio"/> 1 U.S. Government Plaintiff</p> <p><input checked="" type="radio"/> 2 U.S. Government Defendant</p> <p><input type="radio"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input type="radio"/> 4 Diversity (Indicate Citizenship of Parties in item III)</p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN x IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT) FOR DIVERSITY CASES ONLY!</p> <table style="width:100%; border-collapse: collapse;"> <thead> <tr> <th></th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DFT</th> <th></th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DFT</th> </tr> </thead> <tbody> <tr> <td>Citizen of this State</td> <td style="text-align: center;"><input type="radio"/> 1</td> <td style="text-align: center;"><input type="radio"/> 1</td> <td>Incorporated or Principal Place of Business in This State</td> <td style="text-align: center;"><input type="radio"/> 4</td> <td style="text-align: center;"><input type="radio"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="radio"/> 2</td> <td style="text-align: center;"><input type="radio"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td style="text-align: center;"><input type="radio"/> 5</td> <td style="text-align: center;"><input type="radio"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="radio"/> 3</td> <td style="text-align: center;"><input type="radio"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="radio"/> 6</td> <td style="text-align: center;"><input type="radio"/> 6</td> </tr> </tbody> </table>		PTF	DFT		PTF	DFT	Citizen of this State	<input type="radio"/> 1	<input type="radio"/> 1	Incorporated or Principal Place of Business in This State	<input type="radio"/> 4	<input type="radio"/> 4	Citizen of Another State	<input type="radio"/> 2	<input type="radio"/> 2	Incorporated and Principal Place of Business in Another State	<input type="radio"/> 5	<input type="radio"/> 5	Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6
	PTF	DFT		PTF	DFT																				
Citizen of this State	<input type="radio"/> 1	<input type="radio"/> 1	Incorporated or Principal Place of Business in This State	<input type="radio"/> 4	<input type="radio"/> 4																				
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Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6																				

IV. CASE ASSIGNMENT AND NATURE OF SUIT

(Place an X in one category, A-N, that best represents your Cause of Action and one in a corresponding Nature of Suit)

<p><input type="radio"/> A. Antitrust</p> <p><input type="checkbox"/> 410 Antitrust</p>	<p><input type="radio"/> B. Personal Injury/Malpractice</p> <p><input type="checkbox"/> 310 Airplane</p> <p><input type="checkbox"/> 315 Airplane Product Liability</p> <p><input type="checkbox"/> 320 Assault, Libel & Slander</p> <p><input type="checkbox"/> 330 Federal Employers Liability</p> <p><input type="checkbox"/> 340 Marine</p> <p><input type="checkbox"/> 345 Marine Product Liability</p> <p><input type="checkbox"/> 350 Motor Vehicle</p> <p><input type="checkbox"/> 355 Motor Vehicle Product Liability</p> <p><input type="checkbox"/> 360 Other Personal Injury</p> <p><input type="checkbox"/> 362 Medical Malpractice</p> <p><input type="checkbox"/> 365 Product Liability</p> <p><input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability</p> <p><input type="checkbox"/> 368 Asbestos Product Liability</p>	<p><input type="radio"/> C. Administrative Agency Review</p> <p><input type="checkbox"/> 151 Medicare Act</p> <p><u>Social Security</u></p> <p><input type="checkbox"/> 861 HIA (1395ff)</p> <p><input type="checkbox"/> 862 Black Lung (923)</p> <p><input type="checkbox"/> 863 DIWC/DIWW (405(g))</p> <p><input type="checkbox"/> 864 SSID Title XVI</p> <p><input type="checkbox"/> 865 RSI (405(g))</p> <p><u>Other Statutes</u></p> <p><input type="checkbox"/> 891 Agricultural Acts</p> <p><input type="checkbox"/> 893 Environmental Matters</p> <p><input type="checkbox"/> 890 Other Statutory Actions (If Administrative Agency is Involved)</p>	<p><input type="radio"/> D. Temporary Restraining Order/Preliminary Injunction</p> <p>Any nature of suit from any category may be selected for this category of case assignment.</p> <p>*(If Antitrust, then A governs)*</p>
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<p><input type="radio"/> E. General Civil (Other)</p> <p><u>Real Property</u></p> <p><input type="checkbox"/> 210 Land Condemnation</p> <p><input type="checkbox"/> 220 Foreclosure</p> <p><input type="checkbox"/> 230 Rent, Lease & Ejectment</p> <p><input type="checkbox"/> 240 Torts to Land</p> <p><input type="checkbox"/> 245 Tort Product Liability</p> <p><input type="checkbox"/> 290 All Other Real Property</p> <p><u>Personal Property</u></p> <p><input type="checkbox"/> 370 Other Fraud</p> <p><input type="checkbox"/> 371 Truth in Lending</p> <p><input type="checkbox"/> 380 Other Personal Property Damage</p> <p><input type="checkbox"/> 385 Property Damage Product Liability</p>	<p style="text-align: center;">OR</p> <p><input type="radio"/> F. Pro Se General Civil</p> <p><u>Bankruptcy</u></p> <p><input type="checkbox"/> 422 Appeal 27 USC 158</p> <p><input type="checkbox"/> 423 Withdrawal 28 USC 157</p> <p><u>Prisoner Petitions</u></p> <p><input type="checkbox"/> 535 Death Penalty</p> <p><input type="checkbox"/> 540 Mandamus & Other</p> <p><input type="checkbox"/> 550 Civil Rights</p> <p><input type="checkbox"/> 555 Prison Conditions</p> <p><input type="checkbox"/> 560 Civil Detainee – Conditions of Confinement</p> <p><u>Property Rights</u></p> <p><input type="checkbox"/> 820 Copyrights</p> <p><input type="checkbox"/> 830 Patent</p> <p><input type="checkbox"/> 835 Patent – Abbreviated New Drug Application</p> <p><input type="checkbox"/> 840 Trademark</p> <p><input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 (DTSA)</p>
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<p><u>Federal Tax Suits</u></p> <p><input type="checkbox"/> 870 Taxes (US plaintiff or defendant)</p> <p><input type="checkbox"/> 871 IRS-Third Party 26 USC 7609</p> <p><u>Forfeiture/Penalty</u></p> <p><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881</p> <p><input type="checkbox"/> 690 Other</p> <p><u>Other Statutes</u></p> <p><input type="checkbox"/> 375 False Claims Act</p> <p><input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))</p> <p><input type="checkbox"/> 400 State Reapportionment</p> <p><input type="checkbox"/> 430 Banks & Banking</p> <p><input type="checkbox"/> 450 Commerce/ICC Rates/etc</p> <p><input type="checkbox"/> 460 Deportation</p> <p><input type="checkbox"/> 462 Naturalization Application</p>	<p><input type="checkbox"/> 465 Other Immigration Actions</p> <p><input type="checkbox"/> 470 Racketeer Influenced & Corrupt Organization</p> <p><input type="checkbox"/> 480 Consumer Credit</p> <p><input type="checkbox"/> 485 Telephone Consumer Protection Act (TCPA)</p> <p><input type="checkbox"/> 490 Cable/Satellite TV</p> <p><input type="checkbox"/> 850 Securities/Commodities/Exchange</p> <p><input type="checkbox"/> 896 Arbitration</p> <p><input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision</p> <p><input type="checkbox"/> 950 Constitutionality of State Statutes</p> <p><input type="checkbox"/> 890 Other Statutory Actions (if not administrative agency review or Privacy Act)</p>
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<input type="radio"/> G. Habeas Corpus/ 2255 <input type="checkbox"/> 530 Habeas Corpus – General <input type="checkbox"/> 510 Motion/Vacate Sentence <input type="checkbox"/> 463 Habeas Corpus – Alien Detainee	<input type="radio"/> H. Employment Discrimination <input type="checkbox"/> 442 Civil Rights – Employment (criteria: race, gender/sex, national origin, discrimination, disability, age, religion, retaliation) *(If pro se, select this deck)*	<input checked="" type="radio"/> I. FOIA/Privacy Act <input checked="" type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 890 Other Statutory Actions (if Privacy Act) *(If pro se, select this deck)*	<input type="radio"/> J. Student Loan <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (excluding veterans)
<input type="radio"/> K. Labor/ERISA (non-employment) <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Labor Railway Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="radio"/> L. Other Civil Rights (non-employment) <input type="checkbox"/> 441 Voting (if not Voting Rights Act) <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 445 Americans w/Disabilities – Employment <input type="checkbox"/> 446 Americans w/Disabilities – Other <input type="checkbox"/> 448 Education	<input type="radio"/> M. Contract <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 153 Recovery of Overpayment of Veteran’s Benefits <input type="checkbox"/> 160 Stockholder’s Suits <input type="checkbox"/> 190 Other Contracts <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<input type="radio"/> N. Three-Judge Court <input type="checkbox"/> 441 Civil Rights – Voting (if Voting Rights Act)

V. ORIGIN
 1 Original Proceeding
 2 Removed from State Court
 3 Remanded from Appellate Court
 4 Reinstated or Reopened
 5 Transferred from another district (specify)
 6 Multi-district Litigation
 7 Appeal to District Judge from Mag. Judge
 8 Multi-district Litigation – Direct File

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)
 Violation of FOIA, 5 U.S.C. § 552, failing to release responsive, non-exempt records

VII. REQUESTED IN COMPLAINT	<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23	DEMAND \$ JURY DEMAND:	Check YES only if demanded in complaint YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
VIII. RELATED CASE(S) IF ANY	(See instruction)	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	If yes, please complete related case form

DATE: <u>07/06/2023</u>	SIGNATURE OF ATTORNEY OF RECORD <u>/s/ Michael Ding</u>
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INSTRUCTIONS FOR COMPLETING CIVIL COVER SHEET JS-44
 Authority for Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and services of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. Listed below are tips for completing the civil coversheet. These tips coincide with the Roman Numerals on the cover sheet.

- I.** COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF/DEFENDANT (b) County of residence: Use 11001 to indicate plaintiff if resident of Washington, DC, 88888 if plaintiff is resident of United States but not Washington, DC, and 99999 if plaintiff is outside the United States.
- III.** CITIZENSHIP OF PRINCIPAL PARTIES: This section is completed only if diversity of citizenship was selected as the Basis of Jurisdiction under Section II.
- IV.** CASE ASSIGNMENT AND NATURE OF SUIT: The assignment of a judge to your case will depend on the category you select that best represents the primary cause of action found in your complaint. You may select only one category. You must also select one corresponding nature of suit found under the category of the case.
- VI.** CAUSE OF ACTION: Cite the U.S. Civil Statute under which you are filing and write a brief statement of the primary cause.
- VIII.** RELATED CASE(S), IF ANY: If you indicated that there is a related case, you must complete a related case form, which may be obtained from the Clerk’s Office.

Because of the need for accurate and complete information, you should ensure the accuracy of the information provided prior to signing the form.

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

AMERICA FIRST LEGAL FOUNDATION

Plaintiff

v.

DEPARTMENT OF JUSTICE, et al.

Defendant

Civil Action No. 1:23-cv-1948

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*
The Honorable Merrick Garland
U.S. Attorney General
U.S. Department of Justice
950 Pennsylvania Ave, NW
Washington, D.C. 20530-0001

A lawsuit has been filed against you.

Within 30 days after service of this summons on you (not counting the day you received it) you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Michael Ding
AMERICA FIRST LEGAL FOUNDATION
611 Pennsylvania Ave SE #231
Washington, DC 20003

If you fail to respond, judgment by default may be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ANGELA D. CAESAR, CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. 1:23-cv-1948

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____ .

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*: _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

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

AMERICA FIRST LEGAL FOUNDATION

Plaintiff

v.

DEPARTMENT OF JUSTICE, et al.

Defendant

Civil Action No. 1:23-cv-1948

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

U.S. DEPARTMENT OF HOMELAND SECURITY
2707 MARTIN LUTHER KING JR. AVE., SE
WASHINGTON, DC 20528

A lawsuit has been filed against you.

Within 30 days after service of this summons on you (not counting the day you received it) you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Michael Ding
AMERICA FIRST LEGAL FOUNDATION
611 Pennsylvania Ave SE #231
Washington, DC 20003

If you fail to respond, judgment by default may be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ANGELA D. CAESAR, CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. 1:23-cv-1948

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____ .

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*: _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

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

AMERICA FIRST LEGAL FOUNDATION

Plaintiff

v.

DEPARTMENT OF JUSTICE, et al.

Defendant

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Civil Action No. 1:23-cv-1948

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*
The Executive Office
Office of the Legal Adviser
Suite 5.600
U.S. Department of State
600 19th Street NW
Washington, DC 20522

A lawsuit has been filed against you.

Within 30 days after service of this summons on you (not counting the day you received it) you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Michael Ding
AMERICA FIRST LEGAL FOUNDATION
611 Pennsylvania Ave SE #231
Washington, DC 20003

If you fail to respond, judgment by default may be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ANGELA D. CAESAR, CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. 1:23-cv-1948

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____ .

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*: _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

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

AMERICA FIRST LEGAL FOUNDATION

Plaintiff

v.

DEPARTMENT OF JUSTICE, et al.

Defendant

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Civil Action No. 1:23-cv-1948

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

U.S. Department of Justice
U.S. Attorney's Office for the District Of Columbia
Civil Process Clerk
601 D St., NW
Washington, D.C. 20530
Email Service to: USADC.ServiceCivil@usdoj.gov

A lawsuit has been filed against you.

Within 30 days after service of this summons on you (not counting the day you received it) you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Michael Ding
AMERICA FIRST LEGAL FOUNDATION
611 Pennsylvania Ave SE #231
Washington, DC 20003

If you fail to respond, judgment by default may be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ANGELA D. CAESAR, CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. 1:23-cv-1948

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on *(date)* _____ , and mailed a copy to the individual's last known address; or

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designated by law to accept service of process on behalf of *(name of organization)* _____
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I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: