



October 21, 2024

VIA EMAIL: CRT.FOIArequests@usdoj.gov

Kilian B. Kagle, Chief
4CON, Room 6.153
950 Pennsylvania Ave., NW
Washington, DC 20530

Freedom of Information Act Request: The 65 Project

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 distribute that work to a national audience through traditional and social media platforms. AFL's X page has over 294,000 followers, and the X page of our Founder and President has over 756,000 followers.

I. Background

After the 2020 election, then-president and executive director of the Lawyers' Committee for Civil Rights Under Law Kristen Clarke called post-election challenge lawsuits "frivolous" and "packed with conspiracy-laden theory and baseless allegations" and suggested that President Trump's Georgia phone call "is potentially criminal ... under both Georgia state law and our federal election law."¹ The 65 Project, a "dark money group with ties to Democratic Party heavyweights," weaponized state bar ethics systems to publicly target the livelihoods of lawyers who

¹ "Unethical and Anti-Democratic": GOP Lawmakers & Trump Continue Push to Overturn Election Results, DEMOCRACY NOW! (Jan. 5, 2021), <https://perma.cc/FYP4-8SHS>.

611 Pennsylvania Ave SE #231
Washington, DC 20003

320 South Madison Avenue
Monroe, Georgia 30655

worked on those lawsuits.² The 65 Project’s managing director, Michael Teter, told CNN that “[c]reating a system of deterrence requires that people know these complaints have been filed.”³ But critics, like Fordham Law School professor Bruce Green, have stated such tactics are “problematic” because they are “basically designed to embarrass these lawyers, and that may have the effect of discouraging lawyers from engaging in politically involved work, *even if they’re playing by the rules.*”⁴

“There is not one rule for friends and another for foes ... one rule for Democrats and another for Republicans,” according to Attorney General Merrick Garland.⁵ But with Kristen Clarke now running the Civil Rights Division, the Biden-Harris Department of Justice similarly intimidates the administration’s political opponents and everyday Americans, with the obvious intention of chilling lawful activities and constitutionally protected political discourse.⁶ It would be beyond pale if the Department coordinated lawfare with the 65 Project in any way.

Assistant Attorney General Clarke’s team must retain all records in accordance with law to ensure public accountability and transparency regarding the Department’s integrity. The Department’s regulation states:

Each component shall preserve all correspondence pertaining to the requests that it receives under this subpart, as well as copies of all requested records, until disposition or destruction is authorized pursuant to title 44 of the United States Code or the General Records Schedule 14 of the National Archives and Records Administration. *Records shall not be disposed of or destroyed while they are the subject of a pending request, appeal, or lawsuit under the FOIA.*

² Lachlan Markay & Jonathan Swan, *Scoop: High-Powered Group Targets Trump Lawyers’ Livelihoods*, AXIOS (Mar. 7, 2022), <https://perma.cc/7R3P-L6RD>.

³ Tierney Sneed, *Inside the Effort to Disbar Attorneys Who Backed Bogus Election Lawsuits*, CNN (Mar. 10, 2022), <https://perma.cc/SHR7-WM2V>.

⁴ *Id.* (emphasis added).

⁵ *Attorney General Merrick B. Garland Delivers Address to the Workforce: “An Independent Justice Department,”* U.S. DEP’T OF JUST. (Sept. 12, 2024), <https://perma.cc/74HX-LJTC>.

⁶ *See, e.g.*, Press Release, Governor Glenn Youngkin Issues Statement on Noncitizen Voting Lawsuit Filed by the Biden-Harris Department of Justice (Oct. 11, 2024), <https://perma.cc/JD4G-CWVK>; *New Report Details the Extent of the FBI’s Weaponization of Law Enforcement Against Traditional Catholics*, H. COMM. ON THE JUDICIARY & SELECT SUBCOMM. ON THE WEAPONIZATION OF THE FED. GOV’T (Dec. 4, 2023), <https://perma.cc/989D-WY8C>; *Weaponization Subcommittee Report: Documents Show No Legitimate Law-Enforcement Basis for Garland’s Anti-Parent Memo*, H. COMM. ON THE JUDICIARY & SELECT SUBCOMM. ON THE WEAPONIZATION OF THE FED. GOV’T (March 21, 2023), <https://perma.cc/Z9FP-J5M6>.

28 C.F.R. § 16.9 (emphasis added). Additionally, “disposal of a record subject to a FOIA request” constitutes an unlawful destruction of records under 36 C.F.R. § 1230.3. *See also* 18 U.S.C. §§ 641, 1519, 2071.

II. Records Request

Pursuant to the Freedom of Information Act, 5 U.S.C. § 552, AFL requests the following records:

- All communications, including those stored on mobile devices, with the 65 Project, including, but not limited to:
 - Emails with the domain “@the65project.com.”
 - Emails with the domain “@lawworks.com.”
 - eddie@npagenency.com
 - melissa@melissa-moss.com
 - melissabmoss@gmail.com
 - cdurham@wsgr.com
 - roberta.ramo@modrall.com
 - reneekjefferson@gmail.com
 - paul.rosenzweig@redbranchconsulting.com
 - sgeron@ebglaw.com
 - david.brock@gmail.com
- All records containing the terms:
 - “65 Project”
 - “Law Works”
 - “Christine Durham”
 - “Roberta Ramo”
 - “Renee Jefferson”
 - “Paul Rosenzweig”
 - “Stuart Gerson”
 - “Melissa Moss”
 - “Michael Teter”
 - “David Brock” or
 - “Eddie Vale”

The relevant timeframe for this request is January 21, 2021, to the date of processing.

III. Custodians

- Assistant Attorney General Kristen Clarke
- Chief of Staff Alexander Rias

- Principal Deputy Assistant Attorney General Sparkle Sooknanan
- Deputy Assistant Attorney General Johnathan J. Smith
- Deputy Assistant Attorney General Jennifer Mathis
- Senior Counsel Robert N. Weiner
- Senior Counsel Harry Hulings
- Senior Counselor Shaylyn C. Cochran
- Counsel Mikael A. Rojas
- Special Legal Counsel Sheila Foran
- All other DOJ personnel under the authority of Assistant A.G. Clarke

IV. Fee Waiver

AFL requests a waiver of all search and duplication fees associated with this request under 5 U.S.C. § 552(a)(4)(A)(iii) and 28 C.F.R. § 16.10(k). First, AFL is a qualified non-commercial public education and news media requester. Our officials routinely appear on national television and use social media platforms to disseminate the information it has obtained about federal government activities. In this case, AFL will make your records and your responses publicly available for the benefit of citizens, scholars, and others, and the public's understanding of your policies and practices will be enhanced through AFL's analysis and publication of the requested records. As a nonprofit organization, AFL does not have a commercial purpose, and releasing the requested information is not in AFL's financial interest.

V. Conclusion

Processing should strictly comply with the processing guidance in the Attorney General's Memorandum on Freedom of Information Act Guidelines.⁷ If you have any questions about our request or believe further discussions regarding search and processing would facilitate more efficient production of records of interest to AFL, please contact me at FOIA@aflegal.org. Finally, if AFL's request for a fee waiver is not granted in full, please contact us immediately upon making that determination.

Thank you in advance for your cooperation.

Sincerely,

/s/ Michael Ding

America First Legal Foundation

⁷ U.S. DEP'T OF JUST. (Mar. 15, 2022), <https://perma.cc/K3EL-AANM>.