



June 1, 2023

**Via eFOIPA Portal
And via email at foia@hq.dhs.gov.**

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

Freedom of Information Act Request: Hunter Biden Laptop/IC Corruption

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 email list contains over 78,178 unique addresses, our Twitter page has 110,600 followers, the Twitter page of our Founder and President has over 459,900 followers, our Facebook page has 134,000 followers, and we have another approximately 31,900 followers on GETTR.

I. Background

A. Legal framework

50 U.S.C. Subchapter III is titled "Accountability for Intelligence Activities." 50 U.S.C. § 3092 requires the U.S. intelligence community, including the FBI, to keep relevant congressional intelligence committees fully and currently informed of all intelligence or counterintelligence activities "engaged in by, or are carried out for or on behalf of, any department, agency, or entity of the United States Government." 50 U.S.C. § 3093(f) expressly prohibits the U.S. intelligence community, including the FBI, from engaging in covert action "intended to influence United States political processes, public opinion, policies, or media."

It appears that the FBI violated 50 U.S.C. § 3902 by failing to notify Congress of the Bureau's domestic intelligence operation to influence U.S. political process, public opinion, policies, or media by discrediting and/or suppressing the evidence of corruption contained on Hunter Biden's laptop as "Russian disinformation." Although there is some ambiguity in the statutory text,¹ it also appears that the Hunter Biden operation, like the 2016 Russia collusion hoax before it,² violated 50 U.S.C. § 3903(f)'s prohibition on "covert action" aimed at affecting American elections.

B.

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*

¹ "Covert action" means an "activity or activities of the United States Government to influence political, economic, or military conditions abroad, where it is intended that the role of the United States Government will not be apparent or acknowledged publicly." 50 U.S.C. § 3093(e)(1). Section 3093(f) provides: "No covert action may be conducted which is intended to influence United States political processes, public opinion, policies, or media." Read narrowly, § 3903 thus seems to prohibit only "covert actions" overseas that are intended to influence U.S. elections, public opinion, policies, or media. However, it is a "fundamental canon of statutory construction that the words of a statute must be read in their context and with a view to their place in the overall statutory scheme" and hornbook law that statutes must be read symmetrically and coherently as a harmonious whole. *Food & Drug Admin. v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120, 133 (2000) (citations omitted). To contend that Congress would prohibit the FBI from engaging in a *foreign* covert action to affect U.S. elections but allow the FBI to engage in a *domestic* covert action for the same purpose is to upend Subchapter III's statutory purpose and scheme.

² Even under a narrow reading, the FBI's Russia collusion hoax violated 50 U.S.C. § 3093(f). See e.g., *United States v. Michael A. Sussmann*, ECF No. 1, No. 1:21-cr-00582 (D.D.C. Sept. 16, 2021); *United States v. Igor Y. Danchenko*, ECF No. 1, No. 1:21-CR-245 (E.D. Va. Nov. 3, 2021); J. Peter Zane, *Why the Russiagate Scandal Outranks the Rest*, Real Clear Politics (Dec. 8, 2021), <https://bit.ly/3FOHYLh>; Lee Smith, "Here Comes the Limited Hangout", Tablet (Dec. 2, 2021), <https://bit.ly/3Purpsj>; Jonathon Turley, "A Means of Distracting the Public": Brennan Briefed Obama on Clinton "Plan" to Tie Trump to Russia, Res Ipsa Loquitur (Oct. 7, 2020), <https://bit.ly/3FVGSI1>; Matt Taibbi, *It's official: Russiagate is this generation's WMD, The Iraq war faceplant damaged the reputation of the press. Russiagate just destroyed it*, TK News by Matt Taibbi (Mar. 23, 2019), <http://bit.ly/3FSMMAC>.

*Branch departments and agencies [and] It is high time that Russia stops interfering in our democracy.” (Emphasis in original.)*³

This letter had a significant impact on the 2020 election. It was repeatedly cited by Democrat operatives to discredit the evidence of Biden’s political corruption. Also, it was used by Democrat-aligned media organs to suppress the evidence from Hunter Biden’s laptop on the grounds that it was hacked or faked Russian disinformation.

E. The covert operation to protect Joe Biden achieved its objective

On March 16, 2022, the New York Times quietly admitted that the Hunter Biden laptop was genuine and that its contents were authentic.⁴ This admission came more than two years and three months after the FBI took possession of Hunter Biden’s laptop.

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.⁵

II. Records Requested

- A. All records mentioning “Brennan” and the words, “Hunter Biden” or “Hunter” and “laptop.” The time frames for this item are September 1, 2020, to November 1, 2020.
- B. All records mentioning the “Hunter Biden laptop” and either “Politico” or “intelligence officials” for the time period of October 15, 2020 – October 25, 2020.
- C. All records of or regarding the processing of the above items.

III. Custodians

- A. All persons assigned to, working on, or working with CISA’s “MDM team”
- B. Robert Silvers
- C. Kelli Ann Burriesci

³ Clapper, Brennan, et al, *Public Statement on the Hunter Biden Emails* (Oct. 19, 2020), <https://bit.ly/3FPVfnV>.

⁴ 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>.

⁵ 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>.

D. Marie Chalkley
E. Drew Kuepper
F. Serena Hoy
G. Robert Baschall
H. David Cloe
I. Samantha Vinograd
J. Lucian Sikorskyj
K. Thomas McDermott
L. Nina Jankowicz

IV. Fee Waiver Request

Per 5 U.S.C. § 552(a)(4)(A)(iii), AFL requests a waiver of all search and duplication fees.

V. Processing and Production

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

To accelerate your 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 to America First Legal Foundation, 611 Pennsylvania Ave SE #231, Washington, DC 20003.

Thank you in advance for your cooperation.

Sincerely,

/s/ Julia Haller

America First Legal Foundation