



September 29, 2023

SENT BY ELECTRONIC MAIL TO: reed.rubinstein@aflegal.org

Attorney Rubinstein
American First Legal Foundation
611 Pennsylvania Avenue, SE, Suite 231
Washington, DC 20003

**Re: Case 1:22-cv-00986-TSC America First Legal Foundation v. DHS et al
2022-IALI-00003 Production 5**

Dear Attorney Rubinstein,

This letter is a response to the above litigation regarding your electronic Freedom of Information Act (FOIA) request to the Department of Homeland Security (DHS), Office of Intelligence and Analysis (I&A), dated April 7, 2022, and received on that date.

DHS I&A's Production

I&A processed sixty-seven (67) pages that were found to be potentially responsive to your request. Of those pages, one (1) page will be released in part, five pages (5) pages require further coordination with other agencies, and five (5) pages will be withheld in full. The remaining fifty-six (56) pages were non-responsive or duplicates.

This production is made during the course of litigation in which future documents may be produced.

Redactions have been made to protect information exempted as follows:

Freedom of Information Act, 5 U.S.C. § 552			Privacy Act, 5 U.S.C. § 552a
<input type="checkbox"/> 552(b)(1)	<input checked="" type="checkbox"/> 552(b)(5)	<input checked="" type="checkbox"/> 552(b)(7)(C)	<input type="checkbox"/> 552a(j)(2)
<input type="checkbox"/> 552(b)(2)	<input checked="" type="checkbox"/> 552(b)(6)	<input type="checkbox"/> 552(b)(7)(D)	<input type="checkbox"/> 552a(k)(2)
<input type="checkbox"/> 552(b)(3)	<input type="checkbox"/> 552(b)(7)(A)	<input checked="" type="checkbox"/> 552(b)(7)(E)	<input type="checkbox"/> 552a(k)(5)
<input type="checkbox"/> 552(b)(4)	<input type="checkbox"/> 552(b)(7)(B)	<input type="checkbox"/> 552(b)(7)(F)	<input type="checkbox"/> Other:

Exemption 5 protects from disclosure those inter- or intra-agency documents that are normally privileged in the civil discovery context. The three most frequently invoked privileges are the deliberative process privilege, the attorney work-product privilege, and the attorney-client privilege.

Exemption 6 protects from disclosure personnel or medical files and similar files the release of which would cause a clearly unwarranted invasion of personal privacy. This

requires a balancing of the public's right to discourse against the individual's right to privacy. The types of documents and/or information that I&A has withheld may consist of names, email addresses, and phone numbers. The privacy interests of the individuals in the records you have requested outweigh any minimal public interest in disclosure of the information. Any private interest you may have in that information does not factor into the aforementioned balancing test.

Exemption 7(C) protects from public disclosure "records or information compiled for law enforcement purposes...[if disclosure] could reasonably be expected to cause an unwarranted invasion of personal privacy." See 5 U.S.C. § 552(b)(7)(C). I&A is invoking Exemption 7(C) based upon the traditional recognition of strong privacy in law enforcement records, categorical withholding of information that identifies third parties in law enforcement is ordinarily appropriate. As such, I&A has determined that the privacy interest in the identities of individuals in the records you have requested clearly outweigh any minimal public interest in disclosure of the information. Please note that any privacy interest you may have in that information does not factor into this determination.

Exemption 7(E) protects law enforcement information that "would disclose techniques and procedures for law enforcement investigation or prosecution or would disclose guidelines for law enforcement investigations or prosecution, if such disclosure could reasonably be expected to risk circumvention of the law." See 5 U.S.C. § 552(b)(7)(E). DHS I&A is withholding from disclosure specific information which could reasonably be expected to risk circumvention of the law.

If you have any questions regarding this release, please contact the AUSA, United States Department of Justice, Civil Division, Federal Programs Branch, Stephen DeGenaro, Stephen.DeGenaro@usdoj.gov. Please be sure to reference case **1:22-cv-00986-TSC** in any correspondence regarding this case.

Sincerely,

James T

James T

Assistant FOIA Officer

Enclosure – 6 pages