

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

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

*Plaintiff,*

v.

U.S. DEPARTMENT OF DEFENSE,  
Freedom of Information Division  
1155 Defense Pentagon  
Washington, DC 20301-1155

*Defendant.*

Civil Action No.: 1:22-cv-  
01266

**COMPLAINT**

(For Violation of the Freedom of Information Act)

Summary of the Case

1. Plaintiff America First Legal Foundation (“AFL”) brings this action against the United States Department of Defense (“DOD”) to compel compliance with the Freedom of Information Act (“FOIA”) 5 U.S.C. § 552.

2. In May 2021, Lt. Col. Matthew Lohmeier was removed from his post after making an appearance on a podcast to promote his book. The commander’s book asserts that a neo-Marxist agenda is transforming military culture and policy. From this reporting, it is increasingly clear that DOD may be engaging in an anti-conservative purge within the Department. *See, Carly Ortiz-Lytle, Space Force Officer Relieved of Post After denouncing Marxist Ideology and Critical Race Theory in Military: Report, WASHINGTON EXAMINER (May 15, 2021),*

<https://www.washingtonexaminer.com/news/space-force-officer-relieved-from-post-after-criticism-critical-race-theory-marxism>.

3. In response to this reporting, on May 21, 2021, AFL filed a Freedom of Information Act request with the DOD requesting records related to the Department's role in purging political conservatives and Christians from the military. *See* Exhibit 1.

4. On May 25, 2021, DOD responded to AFL via email and claimed that AFL's request contained "overly-generic search terms" that complicated the DOD's ability to process and respond to the request. *See* Exhibit 2.

5. On May 25, 2021, AFL responded and indicated a willingness to speak with DOD about its request. *See* Exhibit 3.

6. Despite its efforts to work with DOD, AFL received an interim response from DOD on May 27, 2021, stating that DOD had placed AFL's request in its complex processing queue and identified approximately 37 search terms AFL had provided that were "problematic" in processing AFL's request. *See* Exhibits 4 & 5.

7. Despite AFL agreeing to significantly narrow the scope of its request, DOD continued to assert that the terms of the search were problematic and requested that AFL identify specific custodians that DOD could search. AFL emphasized that it is not in a position to know what custodians should be searched, and also stated that it is not AFL's burden to provide a rigid set of custodians for DOD to search. *See* Exhibit 6.

8. Even after AFL agreed to significantly narrow the scope of its request, DOD continued to assert that the search terms were too broad and instructed its office to limit its search to DOD's shared drive and emails to and from two custodians. *See* Exhibit 7.

9. AFL's request is not overly broad or unduly burdensome. In its request, and in additional communications with DOD, AFL provided a limited range of search terms and a very narrow timeframe for responsive records. *See* Exhibit 1. Despite AFL's good faith efforts to narrow its request, DOD has consistently asserted that AFL's request is overly broad and problematic. DOD has an obligation under FOIA to work with AFL to ensure openness and transparency throughout government. Attorney General Merrick Garland emphasized this very point in a Department of Justice memorandum: "disclosures enable information about federal government operations to be more readily available to all." Memorandum from Attorney Gen. Merrick B. Garland to Heads of Executive Departments and Agencies (Mar. 15, 2022) (<https://www.justice.gov/ag/page/file/1483516/download>).

10. To date, DOD has not produced any records requested by AFL. Eleven months have elapsed since AFL first filed its request with DOD.

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

12. 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).

13. 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 DOD 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.

#### Jurisdiction and Venue

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

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

#### Parties

16. AFL is a nonprofit organization with its principal office in the District of Columbia.

17. The DOD is an agency under 10 U.S.C. § 111, with headquarters at 1000 Defense Pentagon, Washington, DC. It has possession, custody, and control of the requested records.

#### Facts

18. On May 21, 2021, AFL submitted request 21-F-1050 and requested records relating to DOD's involvement in the monitoring of social media accounts



belonging to uniformed servicemembers, contractors, and civilian employees. *See* Exhibit 1.

19. On May 24, 2021, AFL received an automated response from DOD indicating that AFL's request had been received. *See* Exhibit 8.

20. On May 25, 2021, at 11:32 AM, DOD contacted AFL and stated that DOD had encountered problems with AFL's request regarding the scope and "overly-generic" search terms and requested a meeting to discuss the request. *See* Exhibit 2.

21. On May 25, 2021, at 12:13 PM, AFL responded and provided the contact information for its attorney that DOD could discuss the request with. *See* Exhibit 3.

22. On May 25, 2021, at 1:41 PM, DOD contacted the AFL attorney and scheduled a phone call for May 26, 2021. *See* Exhibit 9.

23. On May 26, 2021, at 6:22 AM, DOD contacted AFL prior to their scheduled phone call and identified 37 search terms from AFL's request (Section III) that DOD claimed were problematic because they were too "generic." *See* Exhibit 5.

24. On May 27, 2021, DOD sent to AFL an interim response which stated that DOD had begun to process AFL's request and had placed the request in its complex processing queue. *See* Exhibit 4.

25. On May 27, 2021, AFL agreed to narrow its request and prioritize five search terms that could be queried against the custodians identified in Section II of AFL's request. *See* Exhibit 6.

26. On June 2, 2021, at 6:11 AM, DOD contacted AFL and stated that DOD was unable to conduct a search across its Joint Staff office without specific email

accounts/custodians. AFL reiterated that it was “not in a position to know what accounts should be searched” and also emphasized that it was not AFL’s burden to provide “a rigid set of email addresses or accounts” to DOD. AFL requested that DOD conduct its search for records on “any account that could reasonably be expected to be added or consulted on a request of the nature described in the FOIA request.” *See* Exhibit 7.

27. On June 9, 2021, DOD responded to AFL via email and stated that three of the five search terms that AFL had agreed to prioritize were still too broad and problematic. DOD also stated that AFL’s initial search pattern request was too broad and that it would confine its search to only two custodians. *See* Exhibit 7.

28. To date, DOD has not provided any of the records that AFL requested.

Claim for Relief

*For Violation of 5 U.S.C. § 552(a)*

29. AFL repeats paragraphs 1-28.

30. The record before the DOD included:

a. Evidence that AFL’s core mission included informing and educating the public regarding the operations and activities of the federal government.

b. Evidence that AFL intended to give the public access to the records it obtains via the FOIA on its website.

c. Evidence that AFL intended to disseminate the information it requested by making the requested records broadly available to the public,

scholars, and the media; to use its editorial skills to turn raw materials into distinct work; and to distribute that work to an audience.

d. Evidence that AFL's email list contained over 30,000 unique addresses, its Twitter page had over 13,000 followers, the Twitter page of its Founder and President had over 158,000 followers, and it had another 29,000 followers on GETTR.

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

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 Defendant 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 Defendant 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.

May 9, 2022.

Respectfully submitted,

/s/ Tyler J. Sanderson

TYLER J. SANDERSON

D.C. Bar No. 1616505

AMERICA FIRST LEGAL FOUNDATION

611 Pennsylvania Avenue SE #231

Washington, D.C. 20003

Tel.: (202) 964-3721

E-mail: tyler.sanderson@aflegal.org

*Counsel for Plaintiff America First  
Legal Foundation*



May 21, 2021

**Via Electronic Mail:**

[FOIA@DoDEA.EDU](mailto:FOIA@DoDEA.EDU)

[dfas.foia@mail.mil](mailto:dfas.foia@mail.mil)

[dcsa.quantico.dcsa-hq.mbx.foia@mail.mil](mailto:dcsa.quantico.dcsa-hq.mbx.foia@mail.mil)

<https://www.esd.whs.mil/FOID/Submit-Request/>

OSD/JS FOIA Requester Service Center  
Freedom of Information Division  
1155 Defense Pentagon  
Washington, DC 20301-1155

**Freedom of Information Act Request:**

Dear FOIA Officer:

America First Legal Foundation (“AFL”) is a national, 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 promote knowledge and understanding of the law and individual rights guaranteed under the Constitution and laws of the United States. AFL’s mission includes promoting government transparency and accountability by gathering official information, analyzing it, and disseminating it through reports, press releases, and/or other media, including social media platforms, to educate the public on significant policy matters.

The public has a compelling interest in our Armed Services and our soldiers remaining above partisan politics. Politicians should not be able to use the military as a tool to punish political disagreements. Moreover, our citizens have a right to know if their taxpayer money is being used to fund contracts with partisan third parties to single out loyal Americans of strictly one political persuasion for discrimination and harassment.

Section 8(b) of Department of Defense (“DOD”) [Instruction No. 1325.06](#), last revised during the Obama Administration to address several key command failures that led to the Fort Hood terrorist attack, provides:

Military personnel must reject active participation in criminal gangs pursuant to section 544 of Public Law 110-181 and in other

organizations that advocate supremacist [white, black, Islamist, or other], extremist, or criminal gang doctrine, ideology, or causes; including those that attempt to create illegal discrimination based on race, creed, color, sex, religion, ethnicity, or national origin; advocate the use of force, violence, or criminal activity; or otherwise engage in efforts to deprive individuals of their civil rights. Active participation in such gangs or organizations is prohibited. Active participation includes, but is not limited to, fundraising; demonstrating or rallying; recruiting, training, organizing, or leading members; distributing material (including posting online); knowingly wearing gang colors or clothing; having tattoos or body markings associated with such gangs or organizations; or otherwise engaging in activities in furtherance of the objective of such gangs or organizations that are detrimental to good order, discipline, or mission accomplishment or are incompatible with military service.

Now, however, it appears hyper-partisan civilians may be weaponizing this Instruction to facilitate deeply racist and offensive “Critical Race Theory” principles, to undermine the military’s traditional apolitical role, and to support an “ideological cleansing” of political conservatives and believing Christians from the military.

We are deeply troubled by multiple and facially credible reports of “anti-conservative purges” within DOD. These reports, if true, suggest DOD and White House operatives are engaging in manifestly unlawful conduct detrimental to U.S. national security solely to punish and suppress lawful political opposition. In this regard, we note with concern the apparently [preferential treatment](#) accorded a “chief of diversity” who publicly equated then-President Trump with Adolph Hitler, relative to a former Space Force officer who was subjected to a [Command Directed Investigation](#) and relieved from his post for advocating nonpartisanship, criticizing racist DOD mandates, and exposing high-ranking DOD officials who said the military has “too many white pilots.”

Accordingly, under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, AFL hereby requests the following records within twenty business days.

## **I. Special Definitions**

“Contractor” shall have the meaning given to the term “Defense contractor” at 32 CFR § 158.3.

“Civilian employee” means a person directly hired and paid from appropriated or non-appropriated funds, under permanent or temporary appointment. See [DOD Dictionary of Military and Associated Terms](#) at 61 (Jan. 2021).

“Secretary’s Memo” means the “Memorandum for Senior Pentagon Leadership Commanders of the Combatant Commands Defense Agency And DOD Field Activity Directors” on the subject of “Immediate Actions to Counter Extremism in the Department and the Establishment of the Countering Extremism Working Group” from Secretary of Defense Lloyd J. Austin III dated April 09, 2021, and hyperlinked at <https://www.defense.gov/Newsroom/Releases/Release/Article/2567545/secretary-of-defense-austin-announces-immediate-actions-to-counter-extremism-in/>

“Uniformed servicemember” means any person who is a current or former member of the uniformed services including the Army, Navy, Air Force, Marine Corps, Coast Guard, and Space Force, as defined at 5 U.S.C. § 2101(c).

## **II. Requested Records**

- A. All records, including, but not limited to, electronic mail, texts, memoranda, and handwritten notes, of, regarding, referring, or relating to the content and meaning of the words and/or terms “extremism”, “extremist”, “extremist groups”, “extremist activity”, “extremist activities”, “extremist material and content”, “social media forums and platforms”, “actionable information” and “concerning behaviors” as those words and/or terms are used in the Secretary’s Memo.
- B. All records, including, but not limited to, electronic mail, texts, memoranda, and handwritten notes, of, regarding, referring, or relating to any contracts, policies, or plans to monitor or survey the social media accounts of uniformed servicemembers, contractors, and/or civilian employees, or any pilot programs, working groups, or Steering Committees developed, formed, or tasked with the same. The timeframe for this request is January 20, 2021 to the date of production of the requested documents.
- C. All records, including, but not limited to, electronic mail, texts, memoranda, and handwritten notes, of, regarding, referring, or relating to any contracts, policies, or plans to monitor or survey the social media accounts of uniformed servicemembers, or any pilot programs, working groups, or Steering Committees developed, formed, or tasked with the same, from, to, or in the possession of each of the following DOD components:
  - 1. Office of the Secretary
  - 2. Office of the Deputy Secretary
  - 3. Office of the Joint Chiefs of Staff
  - 4. Office of Policy
  - 5. Office of Personnel and Readiness
  - 6. Office of Acquisition & Sustainment
  - 7. Office of Intelligence & Security

8. Office of Strategy and Force Development
9. Department of Defense Education Activity
10. Office of the Assistant Secretary of Defense for Homeland Defense and Global Security
11. Office of Homeland Defense Integration and Defense Support of Civil Authorities
12. Office of Public Affairs

The timeframe for this request is January 20, 2021, to date of production of the requested records.

- D. All records, including, but not limited to, electronic mail, texts, memoranda, and handwritten notes, of, regarding, referring, or relating to: (a) any contracts, policies, or plans to monitor or survey the social media accounts of uniformed servicemembers, contractors, or civilian employees, or (b) any pilot programs, working groups, or Steering Committees developed, formed, or tasked with the same, or (c) containing the words or terms “extremism”, “extremist”, “social media”, “actionable” and “concerning”, “Trump”, “Republicans”, “Christian”, “conservative”, “White House”, or “Congress” from, to, or in the possession of each of the following custodians:

1. Lloyd J. Austin III, Secretary of Defense
2. Kathleen Hicks, Deputy Secretary of Defense
3. Thomas Brady, Director Department of Defense Education Activity
4. Julie Blanks, Executive Director, Office of the Under Secretary of Defense for Personnel and Readiness
5. Eric Ridge, Deputy Assistant Secretary of Defense for Strategy and Force and Development
6. Jennifer Walsh, Office of the Assistant Secretary of Defense for Homeland Defense and Global Security
7. Robert G. Salesses, Deputy Assistant Secretary of Defense for Homeland Defense Integration and Defense Support of Civil Authorities
8. Heather King, Deputy Assistant Secretary of Defense for Homeland Defense Integration and Defense Support of Civil Authorities
9. Steven L. Schleien, Office of the Under Secretary of Defense (Policy)
10. Kelly E. Magsamen, Chief of Staff to the Secretary of Defense
11. Farooq A. Mitha, Office of Small Business Programs
12. Colin H. Kahl, Under Secretary of Defense for Policy
13. John F. Kirby, Assistant to the Secretary of Defense for Public Affairs
14. Bishop Garrison

The timeframe for this request is January 20, 2021, to the date of production of the requested records, and the search terms identified below should be queried in each custodian’s records.



- E. All records, including, but not limited to electronic mail, texts, memoranda, and handwritten notes, of, regarding, referring, or relating to the continuous monitoring or surveillance of any military personnel for “extremist material” or “extremism.” The timeframe for this request is January 20, 2021, to date of production of the requested records.
- F. All records, including, but not limited to electronic mail, texts, memoranda, and handwritten notes, of, regarding, referring, or relating to the definition of or activities that would constitute “concerning behavior” or “concerning behaviors” in the context of social media activity. The timeframe for this request is January 20, 2021, to date of production of the requested records.
- G. All records, including, but not limited to electronic mail, texts, memoranda, and handwritten notes, of, regarding, referring, or relating to “keywords” that may or will be used in “accessions and continuous vetting for national security positions” and “social media screening platforms” and “user activity monitoring” as those terms are used in the Secretary’s Memo. The timeframe for this request is January 20, 2021, to date of production of the requested records.

### III. Redactions and Search Terms

Redactions are disfavored as the FOIA’s exemptions are exclusive and must be narrowly construed. *Am. Immigration Lawyers Ass’n v. Exec. Office for Immigration Review (AILA)*, 830 F.3d 667, 676-79 (D.C. Cir. 2016). If a record contains information responsive to a FOIA request, then DOD must disclose the entire record; a single record cannot be split into responsive and non-responsive bits. *Id.*; *see also Parker v. United States DOJ*, 278 F. Supp. 3d 446, 451 (D.D.C. 2017). Consequently, DOD should produce email attachments.

The search terms for our requests should include, but not be limited to, all the following:

1. Monitor
2. Screen
3. Survey
4. Pilot Program
5. Steering Committee
6. extremism
7. extremist
8. material
9. Right-Wing
10. Contractor

- 11.Contract Out
- 12.First Amendment
- 13.civil rights
- 14.Continuously
- 15.Babel Street
- 16.Locate X
- 17..EOP
- 18.Doj
- 19.DHS
- 20.Keywords
- 21.CWEG
- 22.WMG
- 23.USD
- 24.GC
- 25.Joint Staff
- 26.DWC
- 27.Steering Committee
- 28.conservative
- 29.Republican
- 30.Christian
- 31..gmail
- 32..protonmail.com
- 33.LOE
- 34.concerning behaviors
- 35.USD(P&R)
- 36.I&S
- 37.1325.06

The above search terms are not case-sensitive.

In connection with this request, and to comply with your legal obligations:

- Please search all locations and systems likely to have responsive records, regardless of format, medium, or physical characteristics.
- In conducting your search, please construe the term “record” in the broadest possible sense, to include any written, typed, recorded, graphic, printed, or audio material of any kind. We seek all records, including electronic records, audiotapes, videotapes, and photographs, as well as texts, letters, emails, facsimiles, telephone messages, voice mail messages, and transcripts, notes, or minutes of any meetings, telephone conversations, or discussions.
- Our 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 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 such information to official systems within a certain period of time; AFL has a right to records contained 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 tools available to your agency to conduct a complete and efficient search for potentially responsive records. Agencies are subject to governmentwide requirements to manage agency information electronically, and many agencies have adopted the National Archives and Records Administration (NARA) Capstone program, or similar policies. These systems provide options for searching emails and other electronic records in a manner that is 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, 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 by the agency before the completion of processing for this request. If records potentially responsive to this request are likely to be located on systems where they are subject to potential deletion, including on a scheduled basis, please take steps to prevent that deletion, including, as appropriate, by instituting a litigation hold on those records.

### **III. Fee Waiver Request**

Per 5 U.S.C. § 552(a)(4)(A)(iii) and your agency's regulations, AFL requests a waiver of all search and duplication fees associated with this request.

First, 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 through regular substantive analyses posted to its website. For example, its 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. 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 the release of the information requested is not in AFL's financial interest.

Second, waiver is proper as disclosure of the requested information is "in the public interest because it is likely to contribute significantly to public understanding of operations or activities of the government."

#### **IV. 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, 600 14<sup>th</sup> Street NW, 5<sup>th</sup> Floor, Washington, D.C. 20005.

#### **V. Conclusion**

If you have any questions about how to construe this request for records or believe further discussions regarding search and processing would facilitate a more efficient production of records of interest to AFL, please do not hesitate to contact me at [info@aflegal.org](mailto:info@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,

/s/ Gene P. Hamilton  
Gene P. Hamilton  
America First Legal Foundation



AFL Info &lt;info@aflegal.org&gt;

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**OSD/JS FOIA Request 21-F-1050**

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**Hartwick, Raymond J Jr CIV WHS ESD (USA)** <raymond.j.hartwick.civ@mail.mil>

Tue, May 25, 2021 at 11:30 AM

To: "info@aflegal.org" &lt;info@aflegal.org&gt;

Cc: "Fisher, Stephen L CIV WHS ESD (US)" &lt;stephen.l.fisher.civ@mail.mil&gt;, "Andrews, Pamela CIV WHS ESD (USA)" &lt;pamela.andrews2.civ@mail.mil&gt;

Good Morning Mr. Hamilton,

After contacting our legal office in regard to your attached FOIA request, we have identified issues regarding the scope and overly-generic search terms. Would you kindly email me a phone number so that my Team Lead, Mr. Stephen Fisher, and I may discuss this request with you.

Respectfully,

Raymond Hartwick

Government Information Specialist

For Stephen Fisher, on behalf of

Stephanie L. Carr

Chief, Office of Freedom of Information

OSD/JS FOIA Requester Service Center

(571) 372-0432

[Raymond.j.hartwick.civ@mail.mil](mailto:Raymond.j.hartwick.civ@mail.mil)

Let us know how we are doing: <https://ice.disa.mil/index.cfm?fa=card&sp=125562>

**21-F-1050 Request Description.pdf**

175K



AFL Info &lt;info@aflegal.org&gt;

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**OSD/JS FOIA Request 21-F-1050**

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**AFL Info** <info@aflegal.org>

Tue, May 25, 2021 at 12:13 PM

To: "Hartwick, Raymond J Jr CIV WHS ESD (USA)" <raymond.j.hartwick.civ@mail.mil>, Andrew Block  
<andrew.block@aflegal.org>

Please contact Andrew Block at 586-713-7728 or at [andrew.block@aflegal.org](mailto:andrew.block@aflegal.org) (copied here) to coordinate a time.

On Tue, May 25, 2021 at 11:32 AM Hartwick, Raymond J Jr CIV WHS ESD (USA) <[raymond.j.hartwick.civ@mail.mil](mailto:raymond.j.hartwick.civ@mail.mil)> wrote:

Good Morning Mr. Hamilton,

After contacting our legal office in regard to your attached FOIA request, we have identified issues regarding the scope and overly-generic search terms. Would you kindly email me a phone number so that my Team Lead, Mr. Stephen Fisher, and I may discuss this request with you.

Respectfully,

Raymond Hartwick

Government Information Specialist

For Stephen Fisher, on behalf of

Stephanie L. Carr

Chief, Office of Freedom of Information

OSD/JS FOIA Requester Service Center

(571) 372-0432

[Raymond.j.hartwick.civ@mail.mil](mailto:Raymond.j.hartwick.civ@mail.mil)

Let us know how we are doing: <https://ice.disa.mil/index.cfm?fa=card&sp=125562>



**DEPARTMENT OF DEFENSE  
FREEDOM OF INFORMATION DIVISION  
1155 DEFENSE PENTAGON  
WASHINGTON, DC 20301-1155**

Ref: 21-F-1050  
May 26, 2021

Mr. Gene P. Hamilton  
America First Legal Foundation  
600 14th Street NW, 5th Floor  
Washington, D.C. 20005

Dear Mr. Hamilton:

This is an interim response to your May 21, 2021 Freedom of Information Act (FOIA) request, a copy of which is enclosed for your convenience. We received your request on May 24, 2021, and assigned it FOIA case number 21-F-1050. We ask that you use this number when referring to your request.

Although we have already begun processing your request, we will not be able to respond within the FOIA's 20-day statutory time period as there are unusual circumstances which impact our ability to quickly process your request. The FOIA defines unusual circumstances as (a) the need to search for and collect records from a facility geographically separated from this office; (b) the potential volume of records responsive to your request; and (c) the need for consultation with one or more other agencies or DoD components having a substantial interest in either the determination or the subject matter of the records. At least one, if not more of these scenarios applies or would likely apply to your request. While this office handles FOIA requests for the Office of the Secretary of Defense (OSD), the Joint Staff (JS) and other component offices, we do not actually hold their records and our office is not geographically located with these organizations. As we do not hold the records, until the required record searches are complete, we are unable to estimate the potential volume of records or the number of consultations that will be required to make a release determination.

Your request has been placed in our complex processing queue and is being worked based on the order in which the request was received. Our current administrative workload is approximately 3,622 open requests.

If you have requested a fee waiver, please note that decisions to waive or reduce fees are made on a case-by-case basis, and we will make a determination concerning your fee waiver request at the conclusion of the search and assessment of responsive records, should they exist. However, this office will only assess fees if we provide the final response to your FOIA request within the statutory time allotted by the FOIA or if the responsive records total more than 5,000 pages, even after a good faith effort on our part to limit the scope of your request.

In some instances, we have found that requesters who narrow the scope of their requests experience a reduction in the time needed to process their requests. If you wish to narrow the scope of your request or have questions about the foregoing, please do not hesitate to contact your Action Officer, Raymond Hartwick, at [Raymond.j.hartwick.civ@mail.mil](mailto:Raymond.j.hartwick.civ@mail.mil) or 571-372-0432.

Additionally, if you have concerns about service received by our office, please contact a member of our Leadership Team at 571-372-0498 or Toll Free at 866-574-4970.

Should you wish to inquire about mediation services, you may contact the OSD/JS FOIA Public Liaison, Tonya R. Fuentes, at 571-372-0462 or by email at [OSD.FOIALiaison@mail.mil](mailto:OSD.FOIALiaison@mail.mil), or the Office of Government Information Services (OGIS) at the National Archives and Records Administration. The contact information for OGIS is as follows:

Office of Government Information Services  
National Archives and Records Administration  
8601 Adelphi Road-OGIS  
College Park, MD 20740  
E-mail: [ogis@nara.gov](mailto:ogis@nara.gov)  
Telephone: 202-741-5770  
Fax: 202-741-5769  
Toll-free: 1-877-684-6448

We regret the delay in responding to your request and appreciate your patience. As previously stated, please contact the Action Officer assigned to your request, Raymond Hartwick, and reference FOIA case number 21-F-1050, if you have any questions or concerns.

Sincerely,

*Stephen L. Fisher*  
For Stephanie L. Carr  
Chief

Enclosure:  
As stated



"Continuous"

"Babel Street"

"Locate X"

"Steering Committee"

"Pilot Program"

Additionally, I agree to removing the word "actionable" from the list of terms in D, but we would like to keep the rest in.

If it does occur that this results in thousands of false positives, please let me know, per your letter, and we can make a good faith attempt to further limit the scope.

Thank you,

Andrew

On Wed, May 26, 2021 at 6:22 AM Hartwick, Raymond J Jr CIV WHS ESD (USA) <[raymond.j.hartwick.civ@mail.mil](mailto:raymond.j.hartwick.civ@mail.mil)> < Caution-Caution-Caution-mailto:raymond.j.hartwick.civ@mail.mil < Caution-Caution-mailto:raymond.j.hartwick.civ@mail.mil%C2%A0%3c%C2%A0Caution-Caution-Caution-mailto:raymond.j.hartwick.civ@mail.mil < Caution-mailto:raymond.j.hartwick.civ@mail.mil%C2%A0%3c%C2%A0Caution-Caution-Caution-mailto:raymond.j.hartwick.civ@mail.mil%C2%A0%3c%C2%A0Caution-Caution-mailto:raymond.j.hartwick.civ@mail.mil%C2%A0%3c%C2%A0Caution-Caution-Caution-mailto:raymond.j.hartwick.civ@mail.mil > > > wrote:

Good Morning Sir,

The majority of the below search terms are problematic as they are so generic.

1. Monitor
2. Screen
3. Survey
4. Pilot Program
5. Steering Committee
6. extremism
7. extremist
8. material
9. Right-Wing
10. Contractor
11. Contract Out
12. First Amendment
13. civil rights

14. Continuously

15. Babel Street

16. Locate X

17. .EOP

18. DOJ

19. DHS

20. Keywords

21. CWEG

22. WMG

23. USD

24. GC

25. Joint Staff

26. DWC

27. Steering Committee

28. conservative

29. Republican

30. Christian

31. .gmail

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33. LOE

34. concerning behaviors

35. USD(P&R)

36. I&S

37. 1325.06

Respectfully,

Raymond Hartwick

Government Information Specialist

For Stephen Fisher, on behalf of

Stephanie L. Carr

Chief, Office of Freedom of Information

OSD/JS FOIA Requester Service Center

(571) 372-0432

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**Sent:** Tuesday, May 25, 2021 2:35 PM

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All active links contained in this email were disabled. Please verify the identity of the sender, and confirm the authenticity of all links contained within the message prior to copying and pasting the address to a Web browser.

Great, I look forward to speaking with you then.

Are there any specific issues or terms that you plan to address as being overbroad? If so, are you able to share those so I can think on alternatives before we discuss?

On Tue, May 25, 2021 at 2:31 PM Hartwick, Raymond J Jr CIV WHS ESD (USA) <[raymond.j.hartwick.civ@mail.mil](mailto:raymond.j.hartwick.civ@mail.mil) < Caution-Caution-Caution-mailto:[raymond.j.hartwick.civ@mail.mil](mailto:raymond.j.hartwick.civ@mail.mil) < Caution-Caution-Caution-



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raymond.j.hartwick.civ@mail.mil > > > > wrote:

Sir, you can expect a phone call at 10:30 tomorrow morning.

Respectfully,

Raymond Hartwick

Government Information Specialist

For Stephen Fisher, on behalf of

Stephanie L. Carr

Chief, Office of Freedom of Information

OSD/JS FOIA Requester Service Center

(571) 372-0432

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**From:** Andrew Block <[andrew.block@aflegal.org](mailto:andrew.block@aflegal.org) < Caution-Caution-Caution-Caution-mailto:andrew.block@aflegal.org < Caution-Caution-Caution-mailto:andrew.block@aflegal.org%C2%A0%3c%C2%A0Caution-Caution-Caution-Caution-mailto:andrew.block@aflegal.org < Caution-Caution-mailto:andrew.block@aflegal.org%C2%A0%3c%C2%A0Caution-Caution-Caution-mailto:andrew.block@aflegal.org%C2%A0%3c%C2%A0Caution-Caution-Caution-mailto:andrew.block@aflegal.org%C2%A0%3c%C2%A0Caution-Caution-Caution-mailto:andrew.block@aflegal.org < Caution-mailto:andrew.block@aflegal.org%C2%A0%3c%C2%A0Caution-Caution-Caution-Caution-mailto:andrew.block@aflegal.org%C2%A0%3c%C2%A0Caution-Caution-Caution-Caution-mailto:andrew.block@aflegal.org%C2%A0%3c%C2%A0Caution-Caution-Caution-Caution-mailto:andrew.block@aflegal.org%C2%A0%3c%C2%A0Caution-Caution-mailto:andrew.block@aflegal.org%C2%A0%3c%C2%A0Caution-Caution-Caution-Caution-mailto:andrew.block@aflegal.org > > > >

**Sent:** Tuesday, May 25, 2021 1:44 PM

**To:** Hartwick, Raymond J Jr CIV WHS ESD (USA) <[raymond.j.hartwick.civ@mail.mil](mailto:raymond.j.hartwick.civ@mail.mil) < Caution-Caution-Caution-Caution-mailto:raymond.j.hartwick.civ@mail.mil < Caution-Caution-Caution-mailto:raymond.j.hartwick.civ@mail.mil%C2%A0%3c%C2%A0Caution-Caution-Caution-Caution-mailto:raymond.j.hartwick.civ@mail.mil < Caution-Caution-mailto:raymond.j.hartwick.civ@mail.mil%C2%A0%3c%C2%A0Caution-Caution-Caution-Caution-mailto:raymond.j.hartwick.civ@mail.mil%C2%A0%3c%C2%A0Caution-Caution-Caution-Caution-mailto:raymond.j.hartwick.civ@mail.mil < Caution-mailto:raymond.j.hartwick.civ@mail.mil%C2%A0%3c%C2%A0Caution-Caution-Caution-Caution-mailto:raymond.j.hartwick.civ@mail.mil%C2%A0%3c%C2%A0Caution-Caution-Caution-Caution-mailto:raymond.j.hartwick.civ@mail.mil%C2%A0%3c%C2%A0Caution-Caution-Caution-Caution-mailto:raymond.j.hartwick.civ@mail.mil%C2%A0%3c%C2%A0Caution-Caution-Caution-Caution-mailto:raymond.j.hartwick.civ@mail.mil > > > >

**Cc:** Fisher, Stephen L CIV WHS ESD (US) <[stephen.l.fisher.civ@mail.mil](mailto:stephen.l.fisher.civ@mail.mil) < Caution-Caution-Caution-Caution-mailto:stephen.l.fisher.civ@mail.mil < Caution-Caution-Caution-mailto:stephen.l.fisher.civ@mail.mil%C2%A0%3c%C2%A0Caution-Caution-Caution-Caution-mailto:stephen.l.fisher.civ@mail.mil < Caution-Caution-mailto:stephen.l.fisher.civ@mail.mil%C2%A0%3c%C2%A0Caution-Caution-Caution-Caution-mailto:stephen.l.fisher.civ@mail.mil%C2%A0%3c%C2%A0Caution-Caution-Caution-Caution-mailto:stephen.l.fisher.civ@mail.mil%C2%A0%3c%C2%A0Caution-Caution-Caution-Caution-mailto:stephen.l.fisher.civ@mail.mil < Caution-mailto:stephen.l.fisher.civ@mail.mil%C2%A0%3c%C2%A0Caution-Caution-Caution-Caution-mailto:stephen.l.fisher.civ@mail.mil%C2%A0%3c%C2%A0Caution-Caution-Caution-Caution-mailto:stephen.l.fisher.civ@mail.mil%C2%A0%3c%C2%A0Caution-Caution-Caution-Caution-mailto:stephen.l.fisher.civ@mail.mil%C2%A0%3c%C2%A0Caution-Caution-Caution-Caution-mailto:stephen.l.fisher.civ@mail.mil > > > >

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Thanks for the email. I'm free the rest of today, or tomorrow between 9 and 11am or between 2 and 4pm.

[illegible]

My Team Lead, Mr. Fisher, and I would like to schedule a phone call with you to discuss FOIA request 21-F-1050, attached. Please let us know what days/times will work for you.

Raymond Hartwick

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**Sent:** Tuesday, May 25, 2021 12:14 PM

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After contacting our legal office in regard to your attached FOIA request, we have identified issues regarding the scope and overly-generic search terms. Would you kindly email me a phone number so that my Team Lead, Mr. Stephen Fisher, and I may discuss this request with you.

For Stephen Fisher, on behalf of



Stephanie L. Carr

Chief, Office of Freedom of Information

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Let us know how we are doing: Caution-Caution-Caution-Caution-Caution-https:  
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Andrew Block

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Andrew Block

[andrew.block@aflegal.org](mailto:andrew.block@aflegal.org) < Caution-mailto:[andrew.block@aflegal.org](mailto:andrew.block@aflegal.org) > < Caution-Caution-mailto:[andrew.block@aflegal.org](mailto:andrew.block@aflegal.org) < Caution-mailto:[andrew.block@aflegal.org](mailto:andrew.block@aflegal.org) > > < Caution-Caution-Caution-mailto:[andrew.block@aflegal.org](mailto:andrew.block@aflegal.org) < Caution-mailto:[andrew.block@aflegal.org](mailto:andrew.block@aflegal.org) > < Caution-Caution-mailto:[andrew.block@aflegal.org](mailto:andrew.block@aflegal.org) < Caution-mailto:[andrew.block@aflegal.org](mailto:andrew.block@aflegal.org) > > < Caution-Caution-Caution-Caution-mailto:[andrew.block@aflegal.org](mailto:andrew.block@aflegal.org) < Caution-mailto:[andrew.block@aflegal.org](mailto:andrew.block@aflegal.org) > < Caution-Caution-mailto:[andrew.block@aflegal.org](mailto:andrew.block@aflegal.org) < Caution-mailto:[andrew.block@aflegal.org](mailto:andrew.block@aflegal.org) > > < Caution-Caution-Caution-mailto:[andrew.block@aflegal.org](mailto:andrew.block@aflegal.org) < Caution-mailto:[andrew.block@aflegal.org](mailto:andrew.block@aflegal.org) > < Caution-Caution-mailto:[andrew.block@aflegal.org](mailto:andrew.block@aflegal.org) < Caution-mailto:[andrew.block@aflegal.org](mailto:andrew.block@aflegal.org) > > > >

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Andrew Block

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Andrew Block

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Andrew Block

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Andrew Block

[andrew.block@aflegal.org](mailto:andrew.block@aflegal.org)



21-F-1050 Request Description.pdf

175K



Chief, Office of Freedom of Information

OSD/JS FOIA Requester Service Center

(571) 372-0432

[Raymond.j.hartwick.civ@mail.mil](mailto:Raymond.j.hartwick.civ@mail.mil)

Let us know how we are doing: <https://ice.disa.mil/index.cfm?fa=card&sp=125562>

**From:** Andrew Block <[andrew.block@aflegal.org](mailto:andrew.block@aflegal.org)>

**Sent:** Wednesday, June 2, 2021 11:31 AM

**To:** Hartwick, Raymond J Jr CIV WHS ESD (USA) <[raymond.j.hartwick.civ@mail.mil](mailto:raymond.j.hartwick.civ@mail.mil)>

**Subject:** Re: [Non-DoD Source] Re: OSD/JS FOIA Request 21-F-1050

All active links contained in this email were disabled. Please verify the identity of the sender, and confirm the authenticity of all links contained within the message prior to copying and pasting the address to a Web browser.

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Good morning Raymond,

Thank you for the email. That's a tough question for me to answer because we're not in a position to know what accounts should be searched. I guess my response would be we would want them to process it like they would any other FOIA request or records request they received for litigation purposes. But I also don't think that it's our burden to provide a rigid set of email addresses or accounts. Certainly, there were accounts of interest that we named in the request, but as the FOIA requester, we are not in the position to know who all this may -- or may not -- have reached.

So I guess the best way to answer the question is "any account that could reasonably be expected to be added or consulted on a request of the nature described in the FOIA request."

Best Regards,

Andrew

On Wed, Jun 2, 2021 at 6:11 AM Hartwick, Raymond J Jr CIV WHS ESD (USA) <[raymond.j.hartwick.civ@mail.mil](mailto:raymond.j.hartwick.civ@mail.mil)> wrote:

Good Morning Mr. Block,

Our points of contact at the Joint Staff office have requested that you specify what Joint Staff email accounts you would like their office to search. They do not possess the capability to search across the Joint Staff.

Respectfully,

Raymond Hartwick

Government Information Specialist

For Stephen Fisher, on behalf of

Stephanie L. Carr

Chief, Office of Freedom of Information

OSD/JS FOIA Requester Service Center

(571) 372-0432

[Raymond.j.hartwick.civ@mail.mil](mailto:Raymond.j.hartwick.civ@mail.mil) < Caution-mailto:Raymond.j.hartwick.civ@mail.mil >

Let us know how we are doing: Caution-<https://ice.disa.mil/index.cfm?fa=card&sp=125562> < Caution-<https://ice.disa.mil/index.cfm?fa=card&sp=125562> >

**From:** Andrew Block <[andrew.block@aflegal.org](mailto:andrew.block@aflegal.org) < Caution-mailto:andrew.block@aflegal.org > >

**Sent:** Thursday, May 27, 2021 3:02 PM

**To:** Hartwick, Raymond J Jr CIV WHS ESD (USA) <[raymond.j.hartwick.civ@mail.mil](mailto:raymond.j.hartwick.civ@mail.mil) < Caution-mailto:raymond.j.hartwick.civ@mail.mil > >

**Subject:** Re: [Non-DoD Source] Re: OSD/JS FOIA Request 21-F-1050

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Right, so instead of running the 37 search terms against the list of custodians, I've selected these 5 as we discussed yesterday.

So our request is to have the narrative requests run as written (except for you can remove "actionable" from Request D), and then to have these 5 terms queried against the identified custodians.

On Thu, May 27, 2021 at 1:29 PM Hartwick, Raymond J Jr CIV WHS ESD (USA) <[raymond.j.hartwick.civ@mail.mil](mailto:raymond.j.hartwick.civ@mail.mil) < Caution-Caution-mailto:raymond.j.hartwick.civ@mail.mil < Caution-mailto:raymond.j.hartwick.civ@mail.mil%C2%A0%3c%C2%A0Caution-Caution-mailto:raymond.j.hartwick.civ@mail.mil > > wrote:

Thank you for the below Mr. Block, are you still formulating search terms for the remainder of your request or am I to proceed with the below?

"Continuous"  
"Babel Street"  
"Locate X"



"Steering Committee"  
"Pilot Program"

Respectfully,

Raymond Hartwick

Government Information Specialist

For Stephen Fisher, on behalf of

Stephanie L. Carr

Chief, Office of Freedom of Information

OSD/JS FOIA Requester Service Center

(571) 372-0432

[Raymond.j.hartwick.civ@mail.mil](mailto:Raymond.j.hartwick.civ@mail.mil) < Caution-mailto:[Raymond.j.hartwick.civ@mail.mil](mailto:Raymond.j.hartwick.civ@mail.mil) > < Caution-Caution-mailto:[Raymond.j.hartwick.civ@mail.mil](mailto:Raymond.j.hartwick.civ@mail.mil) < Caution-mailto:[Raymond.j.hartwick.civ@mail.mil](mailto:Raymond.j.hartwick.civ@mail.mil) > >

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**From:** Andrew Block <[andrew.block@aflegal.org](mailto:andrew.block@aflegal.org) < Caution-Caution-mailto:[andrew.block@aflegal.org](mailto:andrew.block@aflegal.org) < Caution-mailto:[andrew.block@aflegal.org">%C2%A0%3c%C2%A0Caution-Caution-mailto:\[andrew.block@aflegal.org\]\(mailto:andrew.block@aflegal.org\) > > >](mailto:andrew.block@aflegal.org)

**Sent:** Thursday, May 27, 2021 1:23 PM

**To:** Hartwick, Raymond J Jr CIV WHS ESD (USA) <[raymond.j.hartwick.civ@mail.mil](mailto:raymond.j.hartwick.civ@mail.mil) < Caution-Caution-mailto:[raymond.j.hartwick.civ@mail.mil](mailto:raymond.j.hartwick.civ@mail.mil) < Caution-mailto:[%C2%A0%3c%C2%A0Caution-Caution-mailto:\[raymond.j.hartwick.civ@mail.mil\]\(mailto:raymond.j.hartwick.civ@mail.mil\) > > >](mailto:raymond.j.hartwick.civ@mail.mil)

**Subject:** Re: [Non-DoD Source] Re: OSD/JS FOIA Request 21-F-1050

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Raymond,

Thanks again for the time yesterday. I also received your email this morning with the letter back, thank you for that.

To follow up on the search terms for part D of the request, here are the 5 priority terms we would like searched from the list:

"Continuous"  
"Babel Street"  
"Locate X"  
"Steering Committee"  
"Pilot Program"

Additionally, I agree to removing the word "actionable" from the list of terms in D, but we would like to keep the rest in.

If it does occur that this results in thousands of false positives, please let me know, per your letter, and we can make a good faith attempt to further limit the scope.

Thank you,

Andrew

On Wed, May 26, 2021 at 6:22 AM Hartwick, Raymond J Jr CIV WHS ESD (USA) <raymond.j.hartwick.civ@mail.mil < Caution-Caution-Caution-mailto:raymond.j.hartwick.civ@mail.mil < Caution-Caution-mailto:raymond.j.hartwick.civ@mail.mil%C2%A0%3c%C2%A0Caution-Caution-Caution-mailto:raymond.j.hartwick.civ@mail.mil < Caution-mailto:raymond.j.hartwick.civ@mail.mil%C2%A0%3c%C2%A0Caution-Caution-Caution-mailto:raymond.j.hartwick.civ@mail.mil%C2%A0%C2%A0%3c%C2%A0Caution-Caution-mailto:raymond.j.hartwick.civ@mail.mil%C2%A0%3c%C2%A0Caution-Caution-Caution-mailto:raymond.j.hartwick.civ@mail.mil > > > wrote:

Good Morning Sir,

The majority of the below search terms are problematic as they are so generic.

1. Monitor
2. Screen
3. Survey
4. Pilot Program
5. Steering Committee
6. extremism
7. extremist
8. material
9. Right-Wing
10. Contractor
11. Contract Out
12. First Amendment
13. civil rights



Tyler Sanderson &lt;tyler.sanderson@aflegal.org&gt;

---

**Fwd: OSD/JS FOIA Request 21-F-1050**

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**Andrew Block** <andrew.block@aflegal.org>  
To: Tyler Sanderson <tyler.sanderson@aflegal.org>

Wed, Apr 27, 2022 at 11:54 AM

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

From: **Hartwick, Raymond J Jr CIV WHS ESD (USA)** <raymond.j.hartwick.civ@mail.mil>

Date: Wed, Jun 9, 2021 at 8:29 AM

Subject: OSD/JS FOIA Request 21-F-1050

To: Andrew Block &lt;andrew.block@aflegal.org&gt;

Cc: Fisher, Stephen L CIV WHS ESD (US) &lt;stephen.l.fisher.civ@mail.mil&gt;, Andrews, Pamela CIV WHS ESD (USA) &lt;pamela.andrews2.civ@mail.mil&gt;

Good Morning Mr. Block,

this email is in regard to FOIA request 21-F-1050. One of our components has raised some issues regarding a few of your search terms. The office of the USD Intelligence and Security (USDI&S) has returned the below:

"The search terms are still too broad, the terms "Continuous," "Steering Committee," and "Pilot Program" are problematic.

The search pattern is too broad (i.e. everyone's emails, notes, etc.). It is better if the search is confined to our shared drives and emails to and from Mr. Reid and Mr. Millick. What is best is an exact search better tied to the requestor's intent."

We have instructed USDI&S to proceed with the above search recommendation in order to keep your request moving. Please provide a response stating that you either agree with this limitation, or not, and I will relay your response to USDI&S. If you do not agree with this limitation please note that this could possibly extend any potential return and increase any pertinent fees.

Respectfully,

Raymond Hartwick

Government Information Specialist

For Stephen Fisher, on behalf of

Stephanie L. Carr



Chief, Office of Freedom of Information

OSD/JS FOIA Requester Service Center

(571) 372-0432

[Raymond.j.hartwick.civ@mail.mil](mailto:Raymond.j.hartwick.civ@mail.mil)

Let us know how we are doing: <https://ice.disa.mil/index.cfm?fa=card&sp=125562>

**From:** Andrew Block <[andrew.block@aflegal.org](mailto:andrew.block@aflegal.org)>

**Sent:** Wednesday, June 2, 2021 11:31 AM

**To:** Hartwick, Raymond J Jr CIV WHS ESD (USA) <[raymond.j.hartwick.civ@mail.mil](mailto:raymond.j.hartwick.civ@mail.mil)>

**Subject:** Re: [Non-DoD Source] Re: OSD/JS FOIA Request 21-F-1050

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Good morning Raymond,

Thank you for the email. That's a tough question for me to answer because we're not in a position to know what accounts should be searched. I guess my response would be we would want them to process it like they would any other FOIA request or records request they received for litigation purposes. But I also don't think that it's our burden to provide a rigid set of email addresses or accounts. Certainly, there were accounts of interest that we named in the request, but as the FOIA requester, we are not in the position to know who all this may -- or may not -- have reached.

So I guess the best way to answer the question is "any account that could reasonably be expected to be added or consulted on a request of the nature described in the FOIA request."

Best Regards,

Andrew

On Wed, Jun 2, 2021 at 6:11 AM Hartwick, Raymond J Jr CIV WHS ESD (USA) <[raymond.j.hartwick.civ@mail.mil](mailto:raymond.j.hartwick.civ@mail.mil)>  
[Caution-mailto:raymond.j.hartwick.civ@mail.mil](mailto:Caution-mailto:raymond.j.hartwick.civ@mail.mil) > wrote:

Good Morning Mr. Block,

Our points of contact at the Joint Staff office have requested that you specify what Joint Staff email accounts you would like their office to search. They do not possess the capability to search across the Joint Staff.



AFL Info <info@aflegal.org>

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## Request Acknowledgement by OSD/JS FOIA Requester Service Center

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**donotreply@mail.mil** <donotreply@mail.mil>  
To: info@aflegal.org

Mon, May 24, 2021 at 7:37 AM

Dear Gene Hamilton,

Your request has been received by the OSD/JS FOIA Requester Service Center. The request has been assigned tracking # '21-F-1050'. Please log into your account and review your submission.

The application address is <https://pal.whs.mil>.

Thank you,

OSD/JS FOIA Requester Service Center





For Stephen Fisher, on behalf of

Stephanie L. Carr

Chief, Office of Freedom of Information

OSD/JS FOIA Requester Service Center

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<b>I. (a) PLAINTIFFS</b> America First Legal Foundation 611 Pennsylvania Avenue SE #231 Washington, DC 20003  (b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF <u>11001</u> (EXCEPT IN U.S. PLAINTIFF CASES)	<b>DEFENDANTS</b> U.S. Department of Defense Freedom of Information Division 1155 Defense Pentagon Washington, DC 20301-1155  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>
(c) ATTORNEYS (FIRMNAME, ADDRESS, AND TELEPHONE NUMBER) Tyler J. Sanderson America First Legal Foundation 611 Pennsylvania Avenue SE #231 Washington, DC 20003	ATTORNEYS (IF KNOWN)

<b>II. BASIS OF JURISDICTION</b> (PLACE AN x IN ONE BOX ONLY)	<b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> (PLACE AN x IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT) <b>FOR DIVERSITY CASES ONLY!</b>																								
<div style="display: flex; justify-content: space-between;"> <div style="width: 48%;"> <input type="radio"/> 1 U.S. Government Plaintiff           </div> <div style="width: 48%;"> <input type="radio"/> 3 Federal Question (U.S. Government Not a Party)           </div> </div> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="width: 48%;"> <input checked="" type="radio"/> 2 U.S. Government Defendant           </div> <div style="width: 48%;"> <input type="radio"/> 4 Diversity (Indicate Citizenship of Parties in item III)           </div> </div>	<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
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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)

<input type="radio"/> <b>A. Antitrust</b>  <input type="checkbox"/> 410 Antitrust	<input type="radio"/> <b>B. Personal Injury/ Malpractice</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Medical Malpractice <input type="checkbox"/> 365 Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Product Liability	<input type="radio"/> <b>C. Administrative Agency Review</b>  <input type="checkbox"/> 151 Medicare Act  <u>Social Security</u> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <u>Other Statutes</u> <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 890 Other Statutory Actions (If Administrative Agency is Involved)	<input type="radio"/> <b>D. Temporary Restraining Order/Preliminary Injunction</b>  Any nature of suit from any category may be selected for this category of case assignment.  *(If Antitrust, then A governs)*
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<input type="radio"/> <b>E. General Civil (Other)</b>	OR	<input type="radio"/> <b>F. Pro Se General Civil</b>	
<u>Real Property</u> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent, Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property  <u>Personal Property</u> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<u>Bankruptcy</u> <input type="checkbox"/> 422 Appeal 27 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157  <u>Prisoner Petitions</u> <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Conditions <input type="checkbox"/> 560 Civil Detainee – Conditions of Confinement  <u>Property Rights</u> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent – Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 (DTSA)	<u>Federal Tax Suits</u> <input type="checkbox"/> 870 Taxes (US plaintiff or defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609  <u>Forfeiture/Penalty</u> <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other  <u>Other Statutes</u> <input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 430 Banks & Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 462 Naturalization Application	<input type="checkbox"/> 465 Other Immigration Actions <input type="checkbox"/> 470 Racketeer Influenced & Corrupt Organization <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 485 Telephone Consumer Protection Act (TCPA) <input type="checkbox"/> 490 Cable/Satellite TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions (if not administrative agency review or Privacy Act)



<input type="radio"/> <b>G. Habeas Corpus/ 2255</b>  <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"/> <b>H. Employment Discrimination</b>  <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 type="radio"/> <b>I. FOIA/Privacy Act</b>  <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"/> <b>J. Student Loan</b>  <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (excluding veterans)
<input type="radio"/> <b>K. Labor/ERISA (non-employment)</b>  <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"/> <b>L. Other Civil Rights (non-employment)</b>  <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"/> <b>M. Contract</b>  <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"/> <b>N. Three-Judge Court</b>  <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 5 U.S.C. § 552 failure to comply with FOIA.

<b>VII. REQUESTED IN COMPLAINT</b>	<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23	<b>DEMAND \$</b> <b>JURY DEMAND:</b>	Check YES only if demanded in complaint YES <input type="checkbox"/> NO <input type="checkbox"/>
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<b>VIII. RELATED CASE(S) IF ANY</b>	(See instruction)	YES <input type="checkbox"/> NO <input type="checkbox"/>	If yes, please complete related case form
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DATE: 5/9/2022	SIGNATURE OF ATTORNEY OF RECORD <u>Tyler J. Samuelson</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.

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

America First Legal Foundation

*Plaintiff*

v.

U.S. Department of Defense

*Defendant*

Civil Action No. 1:22-cv-01266

**SUMMONS IN A CIVIL ACTION**

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

U.S. Department of Defense  
Freedom of Information Division  
1155 Defense Pentagon  
Washington, DC 20301-1155

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:

Tyler J. Sanderson  
America First Legal Foundation  
611 Pennsylvania Avenue 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: 5/9/2022

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*

Civil Action No. 1:22-cv-01266

**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:

Civil Action No. 1:22-cv-01266

Signature of Clerk or Deputy Clerk



Civil Action No. 1:22-cv-01266

**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)* \_\_\_\_\_  
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 \_\_\_\_\_, 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:

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

America First Legal Foundation

*Plaintiff*

v.

U.S. Department of Defense

*Defendant*

)  
)  
)  
) Civil Action No. 1:22-cv-01266  
)  
)  
)

**SUMMONS IN A CIVIL ACTION**

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

Matthew M. Graves  
U.S. Attorney's Office for the District of Columbia  
555 4th Street, NW  
Washington, DC 20001

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:

Tyler J. Sanderson  
America First Legal Foundation  
611 Pennsylvania Avenue 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: 5/9/2022

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*

Civil Action No. 1:22-cv-01266

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

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☐ 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: