



DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

National Institutes of Health
Freedom of Information Office
Building 31, Room 5B-35
31 Center Drive, MSC 2107
Bethesda, Maryland 20892-2107
phone: (301) 496-5633
fax: (301) 402-4541

Via E-mail: foia@aflegal.org

July 18, 2022

Gene Hamilton
America First Legal Foundation
600 14th St. NW 5th Floor
Washington, DC 20005

Re: NIH FOIA Case No. 56716

Dear Mr. Hamilton:

This is the final response to your July 16, 2021, Freedom of Information Act (FOIA) request addressed to the FOIA Office, National Institutes of Health (NIH), which was received the same day. Department of Health and Human Services' (HHS) policy calls for the fullest possible disclosure provided by the FOIA, 5 U.S.C. §552, consistent with the protections contained therein. The implementing HHS Regulations establish the criteria pursuant to which the FOIA is administered, *see* 45 C.F.R. Part 5. Copies of the FOIA and the HHS FOIA Regulations are located at: <http://www.nih.gov/icd/od/foia/efoia.htm> and <http://www.nih.gov/icd/od/foia/cfr45.htm>.

You requested a copy of the following:

1. All records, including, but not limited to, electronic mail, texts, memoranda, and handwritten notes, of, regarding, referring, or relating to any efforts to flag COVID-19 or COVID-19 vaccine related "misinformation" or "disinformation" to any social media company, including but not limited to Facebook, Twitter, TikTok, Instagram, Snapchat, Reddit, YouTube, LinkedIn, Tumblr, and Pinterest. The timeframe for this request is January 20, 2021, to date the records request is processed.
2. All records, including, but not limited to, electronic mail, texts, memoranda, and handwritten notes sufficient to show any and all communications with any social media company, including but not limited to Facebook, Twitter, TikTok, Instagram, Snapchat, Reddit, YouTube, LinkedIn, Tumblr, and Pinterest, regarding any efforts to flag COVID-19 or COVID-19 vaccine related "misinformation" or "disinformation". The timeframe for this request is January 20, 2021, to date the records request is processed.
3. All records, including, but not limited to, communications with any email address for a White House office or individual serving in the White House, including those ending in "@who.eop.gov" or "@nsc.eop.gov" of, regarding, or relating to the "flagging" of "disinformation" to any social media company, including but not limited to Facebook,

Twitter, Instagram, TikTok, Snapchat, Reddit, YouTube, LinkedIn, Tumblr, and Pinterest. The timeframe for this request is January 20, 2021, to date the records request is processed.

4. All records, including, but not limited to, electronic mail, texts, memoranda, and handwritten notes sufficient to show how NIH and/or the Administration will determine the veracity of any given post.

5. All records, including, but not limited to, electronic mail, texts, memoranda, and handwritten notes, sufficient to show who will decide what is “misinformation” and the basis on which they will make that determination.

6. All records, including, but not limited to, electronic mail, texts, memoranda, and handwritten notes, sufficient to show who will decide what is “disinformation” and the basis on which they will make that determination.

7. All communications with any email address ending in “@facebook.com”. The timeframe for this request is January 20, 2021, to date the records request is processed.

8. All communications with any email address ending in “@twitter.com”. The timeframe for this request is January 20, 2021, to date the records request is processed.

9. All communications with any email address ending in “@instagram.com”. The timeframe for this request is January 20, 2021, to date the records request is processed.

10. All communications with any email address ending in “@youtube.com”. The timeframe for this request is January 20, 2021, to date the records request is processed.

11. All records sufficient to show the identities of every natural or legal person engaged in “disinformation research and tracking” referenced by Ms. Psaki. The time frame for this request is January 20, 2021, to the date this records request is processed.

12. All records sufficient to show the identities of each of the “members of our senior staff” referenced by Ms. Psaki.

NIH searched their files and located 38 pages responsive to your request. I have determined to withhold portions of the released pages pursuant to your agreement, and Exemptions 5 and 6 of the FOIA, 5 U.S.C. 552(b)(5) and (b)(6) and sections 5.66 and 5.67 of the HHS FOIA Regulations, 45 C.F.R. Part 5. Exemption 5 permits the withholding of internal government records which are pre-decisional and contain staff advice, opinion, and recommendations. This exemption is intended to preserve free and candid internal dialogue leading to decision-making.

Exemption 6 exempts from disclosure records the release of which would cause a clearly unwarranted invasion of personal privacy.

You have the right to appeal this determination to deny you access to information in the Agency's possession. Should you wish to do so, your appeal must be sent within ninety (90) days of the date of this letter, following the procedures outlined in Subpart F of the HHS FOIA Regulations (<https://www.federalregister.gov/documents/2016/10/28/2016-25684/freedom-of-information-regulations>) to the Assistant Secretary for Public Affairs at <https://requests.publiclink.hhs.gov/App/Index.aspx>.

Clearly mark both the envelope and your letter "Freedom of Information Act Appeal."

If you are not satisfied with the processing and handling of this request, you may contact the NIH FOIA Public Liaison and/or the Office of Government Information Services (OGIS):

NIH FOIA Public Liaison

Denean Standing-Ojo
Office of Communications and
Public Liaison
Building 31, 5B52S
31 Center Drive
Bethesda, MD 20892
301-496-5077 (phone)
[nihfoia@mail.nih.gov](mailto:.nihfoia@mail.nih.gov) (email)

OGIS

National Archives and Records Admin.
8601 Adelphi Rd – OGIS
College Park, MD 20740-6001
202-741-5770 (phone)
1-877-684-6448 (toll-free)
202-741-5769 (fax)
ogis@nara.gov (email)

In certain circumstances, provisions of the FOIA and HHS FOIA Regulations allow us to recover part of the cost of responding to your request. Because no unusual circumstances apply to the processing of your request, there is no charge associated with our response.

If you have any questions about this response, please call 301-496-5633.

Sincerely,

Gorka Garcia-Malene
Freedom of Information Officer, NIH

Enclosures: One pdf file (total 38 pages)