



February 24, 2023

VIA EMAIL: [FOIARequest@state.gov](mailto:FOIARequest@state.gov)

U.S. Department of State  
Office of Information Programs and Services  
2201 C Street NW, Suite B266  
Washington, D.C. 20250

**Freedom of Information Act Request: Records of Interagency Communications Relating to Misinformation or Disinformation**

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 46,000 unique addresses, our Twitter page has 55,600 followers, the Twitter page of our Founder and President has over 409,000 followers, our Facebook page has 109,000 followers, and we have another approximately 31,600 followers on GETTR.

**I. Background**

In recent years, various arms of the United States Government have involved themselves in the policing of what they term "Misinformation" "Disinformation" and "Malinformation" (collectively "MDM").<sup>1</sup> AFL understands that the template for such

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<sup>1</sup> See CYBERSECURITY AND INFRASTRUCTURE SEC. AGENCY, *Mis, Dis, Malinformation*, [www.cisa.gov/mdm](http://www.cisa.gov/mdm) (last visited Feb. 23, 2023), Matt Taibbi, (@mtaibbi) TWITTER, (Dec. 9, 2022, 6:51 PM), <https://bit.ly/41zZFbs>; Matt Taibbi, (@mtaibbi) TWITTER, (Feb. 21, 2023, 2:46 PM), <https://bit.ly/41m8Goj>; Press Release, America First Legal Foundation, *AFL Lawsuit Reveals Damning CDC Documents Proving Government Collusion with Big Tech to Censor Free Speech and Promote Biden Administration Propaganda*, (Jul. 27, 2023) (available at <https://bit.ly/3xRy3Rr>).

activity may well have stemmed from the State Department’s work in foreign nations through the Global Engagement Center.<sup>2</sup> Of course, to the extent that the State Department engages in such activities abroad, there are minimized First Amendment issues. But when other components of the United States Government copy the State Department’s foreign playbook and use it at home to influence and shape U.S. political discourse, serious constitutional issues arise.

Prior investigations by America First Legal have demonstrated that the Centers for Disease Control and Prevention (“CDC”) have actively engaged with social media companies to censor the online speech of Americans.<sup>3</sup> The documents AFL has obtained in this investigation reveal a vast interagency process, led at times by the White House, to implement this censorship regime.<sup>4</sup> The documents further reveal involvement by, or participation from, certain individuals at the State Department.<sup>5</sup>

To fully understand the scope and nature of the State Department’s activities in the Biden Administration’s censorship regime, and pursuant to 5 U.S.C. § 552, AFL requests the following records within 20 days:

## II. Requested Records

- A. For the custodians listed below, all records of communications, including but not limited to email, between any custodian and any of the following:
1. Brian J. Scully (in either his position at NSC or DHS)
  2. Mary Elizabeth Polley (during her detail to NSC)
  3. Elisabeth Wilhelm (nla5@cdc.gov)
  4. Andrew Slavitt (EOP)
  5. Rob Flaherty (EOP)
- B. For the custodians listed below, all records of communications, including but not limited to email, with any email ending in “cdc.gov”, “hhs.gov”, “who.eop.gov”, or “nsc.eop.gov” containing any of the following terms: “misinformation”, “misinfo”, “disinformation”, “disinfo”, “malinformation”, “MDM”, “Counter” and “disinfo” within 20 words of each other, or “Counter” and “Misinfo”) within 20 words of each other.

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<sup>2</sup> Press Release, America First Legal Foundation, “AFL Targets Another Biden Administration Effort to Collaborate with Establishment Media and Social Media Companies” (Apr. 7 2022) (available at <https://bit.ly/41nl4V2>).

<sup>3</sup> Press Release, America First Legal Foundation, “AFL Lawsuit Uncovers More Damning CDC Documents Revealing Twitter’s ‘Partner Support Portal’ for COVID-19 Related Censorship and the U.S. Government’s Advancement of “Social Inoculation” Against the “Infodemic” (Dec. 6, 2022) (available at <https://bit.ly/3ExxsYR>).

<sup>4</sup> Press Release, America First Legal Foundation, “BREAKING: America First Legal Uncovers How the Biden Administration Coordinated to Use Foreign Intelligence Tactics Against Americans to Censor Speech” (Jan. 26, 2023) (available at <https://bit.ly/3ZjzNOP>).

<sup>5</sup> *Id.*

C. All records of the processing of this request.

The time frame for these requests is January 21, 2021, through the date of processing.

### **III. Custodians**

The following is the custodian list for the requests listed in Part II.A and Part II.B. The email addresses listed in this section are addresses AFL believes the custodians in question have, but these may not be the only emails and State should ensure it searches all emails, texts, or other forms of messaging for the custodians listed.

- A. Leah Bray, BrayL2@state.gov
- B. Amir Marzouk, MarzoukA@state.gov
- C. Nathaniel Tek, TekN@state.gov
- D. Rita Rico, RicoR@state.gov
- E. Dale Prince, PrinceD@State.gov
- F. Justin Chapman, ChapmanJ2@state.gov
- G. Lauren Laskowski, LaskowskiLC@state.gov
- H. Mary Elizabeth Polley, PolleyME@state.gov
- I. Samaradun Kay Stewart, StewartSK@state.gov

### **IV. Processing**

Processing should occur in strict compliance with the processing guidance in the Attorney General's Memorandum on Freedom of Information Act Guidelines.<sup>6</sup> If you have any questions or believe further discussions regarding search and processing will facilitate a more efficient production of records of interest to AFL, please do not hesitate to contact me at FOIA@aflegal.org.

### **V. Fee Waiver Request**

Per 5 U.S.C. § 552(a)(4)(A)(iii) and 22 C.F.R. § 171.16, AFL requests a waiver of all search and duplication fees associated with this request. The requested information specifically concerns identifiable operations and activities of the Federal Government, including how the Department of State is assisting the interagency to implement President Biden's policy of censorship of disfavored political speech.

AFL has a demonstrated ability and intention to effectively convey the information broadly to the public; AFL's status as a representative of the news media has been recognized by other agencies for granting fee waivers, including the Departments of Defense, Education, Energy, Health and Human Services, Justice, Interior, and Homeland Security. As a non-profit organization, AFL has no identifiable commercial

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<sup>6</sup> U.S. DEP'T JUST. (Mar. 15, 2022), <https://bit.ly/3zvpxb6>.

interest, and the request is made entirely to serve the public interest. We are, of course, available to provide additional information in writing or offline in support of this request. If AFL's request for a fee waiver is not granted in full, please contact us immediately upon making that determination.

## **VI. Request for Expedited Processing**

Pursuant to 22 C.F.R. § 171.11(f)(2) and 22 C.F.R. § 171.11(f)(3) AFL requests expedited processing of this request.

Subpart 2 of the regulation states that State shall grant expedited processing to requests for information that is urgently needed by an individual primarily engaged in disseminating information in order to inform the public concerning an actual or alleged Federal government activity. As discussed above, *see* Section I, FN 2–4, AFL has been engaged in disseminating information on this topic to the public for nearly a year. In fact, one of America First's twitter threads on this subject received over 7 million views on twitter, including over 250,000 engagements, 54,000 likes, and a reply from Elon Musk.<sup>7</sup> AFL is on the leading edge of disseminating information in this space. This request also concerns the actual or alleged federal government activity of censorship of disfavored political speech. Specifically, it aims to uncover the communications between the State Department and the Interagency on this topic.

Subpart 3 of the regulation states that State shall grant expedited processing when failure to release the information would impair substantial due process rights. At stake are the First Amendment rights of an untold number of Americans who are being silenced due to the Biden Administration's censorship regime without a scintilla of due process. Therefore, the State Department should grant the request for expedited processing.

## **VII. Production**

To accelerate the 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, D.C. 20003. Thank you in advance for your cooperation.

Sincerely,

Andrew Block  
America First Legal Foundation

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<sup>7</sup> America First Legal Foundation (@America1stLegal), TWITTER (Dec. 6, 2022, 4:49 PM), <https://bit.ly/3EEemCAf>.