



July 22, 2021

VIA DHS PAL & ELECTRONIC MAIL – FOIA@HQ.DHS.GOV

U.S. Department of Homeland Security
Office of Civil Rights and Civil Liberties
2707 Martin Luther King Jr. AVE SE
Washington, DC 20528

**Freedom of Information Act Request: Department of Homeland Security
Office of Civil Rights and Civil Liberties Records Regarding the Biden
Administration’s Domestic Surveillance Strategy**

Dear FOIA Officer:

This Freedom of Information Act (FOIA) request for records from the Department of Homeland Security Office of Civil Rights and Civil Liberties (DHS) regarding the Biden Administration’s Domestic Surveillance Strategy is directed to you in accordance with the instructions found on the DHS FOIA webpage.¹

America First Legal Foundation (“AFL”) is a national, nonprofit organization. AFL works 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. Our mission includes promoting government transparency and accountability by gathering official information, analyzing it, and disseminating it through reports, press releases, and social media platforms to educate the public.

A core part of this mission is exposing the extent of the partnership between the President and the agencies he directs with the tech oligarchs of Alphabet, Amazon, Apple, Facebook, Microsoft, Moonshot CVE, and Twitter to control information regarding, *inter alia*, Biden’s financial ties to the Chinese Communist Party; the efficacy of coronavirus policy and scientific choices made by the Centers for Disease Control; the race or religion of the criminals who have assaulted and attacked Asians or Jews in New York, Los Angeles, Chicago, and other leftist-controlled American cities; and, of course, 2020 Presidential election integrity. Another core part of this mission is exposing how and why the Biden Administration is using a coalition of multinational technology corporations, domestic security

¹ See [FOIA Contact Information | Homeland Security \(dhs.gov\)](#).

agencies, and the U.S. intelligence community to discourage or prevent Americans from exercising their Constitutional rights to speak, to receive information, to peaceably assemble, and to petition the government for a redress of grievances.

In the summer of 2020, the United States suffered an unprecedented surge of coordinated political violence in the context of a larger collusive effort by special interests, including technology corporations, to “tip” and control the outcome of the 2020 Presidential election. See Molly Ball, *The Secret History of the Shadow Campaign That Saved the 2020 Election*, Time Magazine (Feb. 5, 2021) available at <https://time.com/5936036/secret-2020-election-campaign/>; Chris Fox, *Twitter and Facebook's action over Joe Biden article reignites bias claims*, BBC News (Oct. 15, 2020) <https://www.bbc.com/news/technology-54552101>; Epstein and Anderson, “The search engine manipulation effect (SEME) and its possible impact on the outcomes of elections”, The Proceedings of the National Academy of Sciences of the United States of America (Aug. 2015) <https://www.pnas.org/content/112/33/E4512>. From attacks against federal buildings, to the cold-blooded murders of police officers, to assaults, beatings, and intimidation of innocent citizens, to the burning of private property in cities around the country, it was clear public order, and the men and women of law enforcement, were being sacrificed for a larger political agenda. For example, as the lawlessness, riots, and intimidation raged on, persons now serving in the Biden Administration attacked the police as racists and called for them to be “defunded” and prosecuted. Campaign staff of the sitting Vice President openly raised bail money for looters and arsonists. Democrats on the House Intelligence Committee opened investigations to hamstring DHS’s ability to help local police respond to rioting, burning, and murder. [Full Committee Hearing: DHS Senior Official Performing the Duties of the Under Secretary for Intelligence and Analysis Joseph B. Maher | Committee Repository | U.S. House of Representatives](#) at 22-23 (Oct. 2, 2020).

Once in power, and using civil disobedience on January 6, 2021 as pretext, the Biden Administration crafted and in June 2021 released the “first-ever National Strategy for Countering Domestic Terrorism” (the “Domestic Surveillance Strategy”), <https://www.whitehouse.gov/wp-content/uploads/2021/06/National-Strategy-for-Countering-Domestic-Terrorism.pdf>. The close alliance between technology companies and the political and corporate left to censor or “manage” information for their mutual benefit is open and obvious.² The Domestic Surveillance Strategy takes the next logical step in that alliance: It memorializes a partnership between the Biden

² See, e.g., Schwartz, “WH's Psaki: ‘We're Flagging Problematic Posts For Facebook That Spread Disinformation’”, Real Clear Politics (July 15, 2021) https://www.realclearpolitics.com/video/2021/07/15/psaki_were_flagging_problematic_posts_for_facebook_that_spread_disinformation.html; Turley, “Censoring the Biden story: How social media becomes state media”, The Hill (Oct. 17, 2020) <https://www.msn.com/en-us/news/politics/censoring-the-biden-story-how-social-media-becomes-state-media/ar-BB1a7Rid>; Richardson, “Google exec in Project Veritas sting says only big tech can stop ‘the next Trump situation’”, The Washington Times (June 24, 2019) <https://www.washingtontimes.com/news/2019/jun/24/google-exec-project-veritas-sting-says-only-big-te/>.

Administration and tech oligarchs to weaponize the federal government’s law enforcement and intelligence capabilities against loyal and patriotic American citizens they have deemed undesirable and deplorable due to their traditional, Constitutional, or conservative political and religious views. Specifically, the Biden strategy is to use the domestic security apparatus (DHS, the Department of Justice, and the Federal Bureau of Investigation), as well as internationally focused agencies like the Departments of Defense and State, NTCT, and unnamed “others” (presumably the Central Intelligence Agency, and the National Security Agency) to monitor and “address” “misinformation” and “disinformation” without saying who will be the arbiter of what is correct or allowable. See *Domestic Surveillance Strategy* at pp. 9, 18, 20, 29. In a particularly chilling Maoist turn of a phrase, the Biden Administration promises to “enhance critical thinking” through a combination of censorship, re-education, and financial and other de-platforming measures against anyone it deems to be holding inappropriate political views. *Id.*

FOIA’s purpose is to ensure an informed citizenry, which is vital to the functioning of a democratic society, needed to check against corruption, and required to hold the governors accountable to the governed. 5 U.S.C. § 552; *NLRB v. Robbins Tire & Rubber Co.*, 437 U.S. 214, 242 (1978). Given the strong and voluminous evidence of domestic security and intelligence community politicization,³ the operation and execution of the Domestic Surveillance Strategy are evident matters of pressing public concern. Accordingly, pursuant to FOIA, AFL requests production of the following records within twenty days.

I. Special Definitions

“DHS” means the U.S. Department of Homeland Security Office of Civil Rights and Civil Liberties and all contractors working on its behalf.

“Domestic Surveillance Strategy” means the document titled *National Strategy for Countering Domestic Terrorism* (June 2021) available at <https://www.whitehouse.gov/wp-content/uploads/2021/06/National-Strategy-for-Countering-Domestic-Terrorism.pdf>

³ See, e.g., U.S. Dep’t of Justice OIG, *Investigative Summary 21-096: Findings of Misconduct by a Then-Senior FBI Official for Having Numerous Unauthorized Contacts with the Media, and for Accepting Unauthorized Gifts from Members of the Media* (July 20, 2021) <https://oig.justice.gov/sites/default/files/reports/21-096.pdf>; Letter from the Director of National Intelligence to Sen. Lindsey Graham (Unclassified) (Sept. 29, 2020) <https://www.judiciary.senate.gov/imo/media/doc/09-29-20-Letter%20to%20Sen.%20Graham-Declassification%20of%20FBI's%20Crossfire%20Hurricane%20Investigations-20-00912-U-SIGNED-FINAL.pdf>; U.S. Dep’t of Justice OIG, “*Review of Four FISA Applications and Other Aspects of the FBI’s Crossfire Hurricane Investigation*” (Dec. 9, 2019) <https://oig.justice.gov/reports/2019/o20012.pdf>; U.S. Dep’t of Justice OIG, *Review of Allegations Regarding Various Actions by the Department and the Federal Bureau of Investigation (FBI) in Advance of the 2016 Election* (June 14, 2018) <https://oig.justice.gov/reports/review-various-actions-federal-bureau-investigation-and-department-justice-advance-2016>.

II. Requested Records

- A. All funding opportunities, contracts, grants, or procurements solicited or awarded by DHS pursuant or related to the Domestic Surveillance Strategy. The time frame for this request is January 20, 2021, to the present.
- B. All records of, regarding, referring, or relating to the legal and/or operational definition of the terms “disinformation”, “misinformation”, “anti-government ideologies”, and “extremism” used in the Domestic Surveillance Strategy. The time frame for this request is January 20, 2021, to the present.
- C. All records sufficient to identify the political appointee(s) and/or career official(s) who determine what information, ideology, or belief is or is not “disinformation”, “misinformation”, “anti-government ideologies”, and “extremism” as used in the Domestic Surveillance Strategy. The time frame for this request is January 20, 2021, to the present.
- D. All records sufficient to identify every natural or legal person in the “technology sector”, as that term is used in the Domestic Surveillance Strategy, who communicated or consulted with one or more political appointee(s), special government employees, career officials with a grade of GS-14 step 1 or above, or contractors regarding, referring, or relating to the Domestic Surveillance Strategy and/or using any one of the following terms: “disinformation”, “misinformation”, “anti-government”, “extremism”, “DVE”, “Operation Chokepoint”, “banks”, “management”, “lobbyist”, “contract”, “liability”, “payment processors”, “surveillance”, “Twitter”, “social media”, “Facebook”, or “conservative”. The time frame for this request is January 20, 2021, to the present.
- E. All records regarding, referring, or related to:
 - 1. The statement “For example, the Department of Homeland Security and others are either currently funding and implementing or planning evidence-based digital programming, including enhancing media literacy and critical thinking skills, as a mechanism for strengthening user resilience to disinformation and misinformation online for domestic audiences” at p. 20 of the Domestic Surveillance Strategy.
 - 2. DHS’s definition of (i) “disinformation”, (ii) “misinformation”, (iii) “user resilience”, (iv) “media literacy”, (v) “critical thinking skills,” (vi) “evidence-based”, (vii) “others”, and (viii) “digital

programming” as used at p.20 of the Domestic Surveillance Strategy.

3. All “digital programming” referenced at p.20 of the Domestic Surveillance Strategy funded or implemented by DHS.

The time frame for this request is January 20, 2021, to the present.

F. All records regarding, referring, or related to:

1. The DHS “strategies to provide enhanced training on domestic terrorism iconography, symbology, and phraseology, and information on how to recognize potential indicators of mobilization to domestic terrorism” referenced at p. 25 of the Domestic Surveillance Strategy.
2. DHS’s definition of the term “potential indicators of mobilization” used at p.25 of the Domestic Surveillance Strategy.

G. All records regarding, referring, or related to DHS’s definition of the term “anti–government ideologies” at p. 27 of the Domestic Surveillance Strategy. The time frame for this request is January 20, 2021, to the present.

H. All records regarding, referring, or related to:

1. The statement “We will also build a community to address domestic terrorism that extends not only across the Federal Government but also to critical partners. That includes state, local, tribal, and territorial governments, as well as foreign allies and partners, civil society, the technology sector, academia, and more” at p. 12 of the Domestic Surveillance Strategy.
2. DHS’s definition of the term “domestic violent extremist” used at p. 10 of the Domestic Surveillance Strategy, and the terms “address”, “build a community”, “civil society”, “technology sector”, “academia”, and “more” used at p. 12 of the Domestic Surveillance Strategy.

I. Records sufficient to identify every specific DHS “partner”, whether a natural or legal person, in the “technology sector” and in “academia” with respect to “disinformation”, “misinformation”, “anti-government ideologies”, or “domestic violent extremists” as those words and terms

are used in the Domestic Surveillance Strategy. The time frame for this request is January 20, 2021, to the present.

- J. All records regarding, referring, or related to:
 - 1. The statement “Continuing to enhance the domestic terrorism–related information offered to the private sector, especially the technology sector will facilitate more robust efforts outside the government to counter terrorists’ abuse of Internet–based communications platforms to recruit others to engage in violence” at p. 22 of the Domestic Surveillance Strategy.
 - 2. DHS’s definition of and/or meaning given to the terms “enhance”, “terrorism-related information”, “abuse of internet-based communications platforms”, and “recruit” used at p. 22 of the Domestic Surveillance Strategy.

- K. Records sufficient to identify every legal person in the “technology sector”, as that term is used at p.22 of the Domestic Surveillance Strategy, that is or has been provided “domestic terrorism-related information” by DHS, as that term is used in the Domestic Surveillance Strategy. The time frame for this request is January 20, 2021, to the present.

- L. All records regarding, referring, or relating to:
 - 1. The statement: “Furthermore, we will focus specifically on violence and factors which contribute to it while respecting civil rights, civil liberties, and privacy protections, and while recognizing and maximizing the positive benefits of modern communications technologies such as the Internet” at p. 12 of the Domestic Surveillance Strategy.
 - 2. The statement, “[T]he United States endorses the *Christchurch Call to Action to Eliminate Terrorist and Violent Extremist Content Online*” at p. 23 of the Domestic Surveillance Strategy and the decision to make that endorsement.

- M. All records regarding, referring, or relating to the statement: “We are addressing domestic terrorism–related online recruitment and mobilization to terrorism while respecting foundational constitutional protections for free speech and association” at p. 22 of the Domestic Surveillance Strategy, including records sufficient to support the claim

that such activity is being done consistent with the First Amendment. The time frame for this request is January 20, 2021, to the present.

- N. All records regarding, referring, or relating to the statement: “White House and relevant departments and agencies are consulting extensively with stakeholders nationwide to understand what support and resources stakeholders are looking for from the Federal Government and what lessons can be learned from past prevention efforts” at p. 20 of the Domestic Surveillance Strategy. The time frame for this request is January 20, 2021, to the present.
- O. For the statement: the “Department of Homeland Security and others are either currently funding and implementing or planning evidence-based digital programming, including enhancing media literacy and critical thinking skills, as a mechanism for strengthening user resilience to disinformation and misinformation online for domestic audiences” at p. 20 of the Domestic Surveillance Strategy, the following records:
1. All records of, regarding, or relating to any “evidence-based digital programming” DHS is “currently funding and implementing or planning”, as those terms are used in the Domestic Surveillance Strategy.
 2. All records sufficient to show what “enhancing social media literacy” means.
 3. All records sufficient to show what “enhancing...critical thinking skills” means.
 4. All records sufficient to show the identity of every natural or legal person(s) responsible for determining what is or is not “disinformation” or “misinformation.”

The time frame for this request is January 20, 2021, to the present.

- P. All records of, referring, regarding, or relating to DHS’s definition and/or meaning given to the term “tacitly condone” used at p.22 of the Domestic Surveillance Strategy. The time frame for this request is January 20, 2021, to the present.
- Q. All records sufficient to identify every political appointee, special government employee, and/or career official with a grade of GS-14 or above, who has had any communication or contact with any legal or natural person in the “technology sector”, as that term or used at p. 12

of the Domestic Surveillance Strategy, referring, regarding, or relating to “disinformation”, “misinformation”, or “anti-government ideologies” as those terms are used in the Domestic Surveillance Strategy and/or as defined by DHS. The time frame for this request is January 20, 2021, to the present.

- R. All records of, referring, or relating to the statement: “Enduring DVE motivations pertaining to biases against minority populations and perceived government overreach will almost certainly continue to drive DVE radicalization and mobilization to violence. Newer sociopolitical developments—such as narratives of fraud in the recent general election, the emboldening impact of the violent breach of the U.S. Capitol, conditions related to the COVID–19 pandemic, and conspiracy theories promoting violence—will almost certainly spur some DVEs to try to engage in violence this year” at p. 10 of the Domestic Surveillance Strategy. The time frame for this request is January 20, 2021, to the present.
- S. All records of, referring, or relating to the “digital literacy toolkit” referenced at <https://www.dhs.gov/CP3>. The time frame for this request is January 20, 2021, to the present.
- T. All records of communications or consultations with, and/or referring, or relating to the “Content-Sharing Algorithms, Processes, and Positive Interventions (CAPPI) working groups” referenced at <https://www.dhs.gov/CP3>. The time frame for this request is January 20, 2021, to the present.
- U. All records of communications or consultations with, and/or referring, or relating to the entity or organization known as “Tech Against Terrorism”, <https://www.techagainstterrorism.org/>; the United Nations Security Council Counter-Terrorism Committee (CTC); and/or the Counter-Terrorism Committee Executive Directorate (CTED), and/or any natural or legal person, including but not limited to corporations or governments, employed by, providing services to, or otherwise affiliated therewith. The time frame for this request is January 20, 2021, to the present.
- V. All records of communications or consultations with, regarding, referring, or relating to, a “financial institution” as that term is used at p. 18 of the Domestic Surveillance Strategy. The time frame for this request is January 20, 2021, to the present.

- W. All records sufficient to identify any legal or natural person in the “technology sector” or “academia”, as used in the Domestic Surveillance Strategy, referring, regarding, or relating to the contents or publication of the “Joint Intelligence Bulletin: (U//FOUO) Domestic Violent Extremists Emboldened in Aftermath of Capitol Breach, Elevated Domestic Terrorism Threat of Violence Likely Amid Political Transitions and Beyond” (13 Jan. 2021) <https://info.publicintelligence.net/DHS-FBI-NCTC-CapitolBreachViolence.pdf>. The time frame for this request is January 3, 2021, to July 1, 2021.
- X. For the persons, agencies, departments, and offices listed below, all records, sufficient to identify every political appointee, special government employee, or career employee with a grade of GS-14 step 1 or higher who communicated or consulted with DHS and used any one of the following words or phrases “disinformation”, “misinformation”, “anti-government”, “extremism”, “domestic violent extremist”, “DVE”, “white supremacy”, “flagging”, “civil liberties”, “civil rights”, “litigation”, “First Amendment”, “free speech”, “Facebook”, “Twitter”, “technology sector”, “social media”, “Operation Chokepoint”, “Zuckerberg”, “management”, “lobbyist”, or “Moonshot CVE”.
1. Any person with an email address containing “eop.gov”.
 2. The Office of the President.
 3. The Office of the White House Counsel.
 4. The Office of Management and Budget.
 5. The Department of the Treasury.
 6. The National Security Council.
 7. The National Counterterrorism Center.
 8. The Department of Defense.
 9. The Department of Justice.
 10. The Department of State.
 11. The Central Intelligence Agency.
 12. The National Security Agency.

13. The Federal Bureau of Investigation.
14. The Domestic Policy Council.

The time frame for this request is January 20, 2021.

III. Redactions

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 the DHS 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, you should produce email attachments.

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.

IV. Fee Waiver Request

Per 5 U.S.C. § 552(a)(4)(A)(iii) and your 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.” 5 U.S.C. § 552(a)(4)(A)(iii). The public has a significant interest in DHS’s compliance with and faithful execution of the laws,

in its respect for Congressional prerogative and the separation of powers, and its respect for the Constitutional rights of American citizens.

Finally, the Department of Homeland Security has conditionally granted fee waiver requests to AFL previously, as have other government agencies, including the Department of Education and the Department of the Interior.

V. 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 14th Street NW, 5th Floor, Washington, D.C. 20005.

VI. 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 foia@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/ _____
Reed D. Rubinstein
America First Legal Foundation