



U.S. Department of Justice
Civil Rights Division

21-00291-F

Freedom of Information /PA Unit- 4CON
950 Pennsylvania Ave., NW
Washington, DC 20530

Mr. Reed D. Rubinstein
600 14th Street NW, 5th Floor
Washington, DC 20005
foia@aflegal.org

Dear Mr. Rubinstein:

This is in response to your August 31, 2021 Freedom of Information Act request to the Civil Rights Division (CRT) of the Department of Justice (DOJ). As explained below, (1) CRT will begin processing those portions of your request that reasonably describe the records requested; (2) CRT will seek further clarification and narrowing of some of the requests that are exceedingly broad; (3) CRT will not provide substantive written responses to questions that are not requests for records under FOIA; (4) CRT will waive fees despite the significant expenditure of limited government resources needed to respond to this request; and (5) CRT will not expedite this request.

Records Requested:

- A. For all Voting Section attorneys, both political appointees and career, who are at the GS Grade 12 Step 1 or higher:
 1. The most recent resume provided by the individual to the agency in connection with determining the appropriate salary for the individual, or if that is not available, a recent resume contained within the agency's records. AFL has no objection to the redaction of employee's contact information, such as email, address, phone numbers etc.; however, prior employment, education, and descriptions of such experiences are not exempt and should be produced.
 2. Any waivers issued to the individual pursuant to 18 U.S.C. § 208(b).
 3. Any authorizations for the individual issued pursuant to 5 C.F.R. § 2635.502.

4. Any Ethics Pledge waivers, issued pursuant to Section 3 of Executive Order 13989 and Office of Government Ethics Legal Advisory 21-04, received by the individual.
 5. Any ethics agreement executed by the individual; any Certification of Ethics Agreement Compliance; and any records relating to any violation by an individual of his or her ethics agreement.
 6. Records reflecting any recusal determination made or issued for the individual.
 7. Any mandatory public financial disclosures filed by the individual since January 1, 2017.
- B. For all attorneys employed by, detailed or assigned to, and/or supervising the Voting Section (career and political appointees), all records of, and/or referring, regarding, or relating to communications with, any of the following persons between February 1, 2016, and the present:
1. ACLU
 2. Common Cause
 3. Brennan Center for Justice
 4. FairFight
 5. Future Forward USA
 6. LCV Victory Fund
 7. Change Now PAC
 8. Take Back 2020
 9. America's Progressive Promise PAC
 10. Priorities USA Action
 11. American Bridge 21st Century
 12. Piedmont Rising
 13. NextGen Climate Action
 14. Unite the Country
 15. Forward Majority Action
 16. Black PAC
 17. Senate Majority PAC
 18. Pacronym
 19. Mark E. Elias
 20. Any person having an email address containing "perkinscoie.com"
- C. All records of, regarding, referring, or relating to expansion of the size and staff of the Voting Section, to include all communications regarding potential new hires, detailees, and/or the category or types of attorneys whom leadership will seek out to fill the new positions, and any preferred affiliations, background, or qualifications. The time frame for this request is January 20, 2021, to the present.
- D. For any attorney employed by or detailed to the Voting Section, all records of, and/or regarding, referring, or relating to communications with, any person having an email address containing eop.gov. The time frame for this request is January 21, 2021, to the present.

- E. All records sufficient to identify every person employed by or detailed to DOJ, CRT, and/or the Voting Section, who analyzed, reviewed, researched, evaluated, approved the legal sufficiency of, and/or authorized the filing of the Georgia Case. The time frame for this request is January 21, 2021, to the present.
- F. All records of, referring, regarding, or relating to communications between any person employed by or detailed to DOJ, CRT, and/or the Voting Section, and any person having an email address containing eop.gov, referring, regarding, or relating to the Georgia Case. The time frame for this request is January 21, 2021, to the present.
- G. All records sufficient to identify each person who wrote, reviewed, revised, contributed to, or approved all or part of the Policy Address.
- H. With respect to the phrase “And some jurisdictions, based on disinformation, have utilized abnormal post-election audit methodologies that may put the integrity of the voting process at risk and undermine public confidence in our democracy” used in the Policy Address, all records sufficient to identify the following:
 - 1. DOJ’s legal and/or operational definition of the word “disinformation”.
 - 2. What Attorney General Garland meant by the word “disinformation”.
 - 3. DOJ’s legal and/or operational meaning of the phrase “abnormal post- election audit methodologies”.
 - 4. What Attorney General Garland meant by the phrase “abnormal post- election audit methodologies”.
 - 5. All “jurisdictions” using “abnormal post-election audit methodologies that may put the integrity of the voting process at risk.”
 - 6. The “abnormal post-election audit methodologies that may put the integrity of the v voting process at risk”.
 - 7. How the referenced “abnormal post-election audit methodologies” “may put the integrity of the voting process at risk”.
- I. With respect to the phrase “We will also partner with other federal agencies to combat election disinformation” used in the Policy Address, all records sufficient to identify the following:
 - 1. DOJ’s legal and/or operational definition of the phrase “election disinformation.”
 - 2. What Attorney General Garland meant by the phrase “election disinformation.”
 - 3. All measures taken by DOJ to “partner with other federal agencies to combat

election disinformation.”

4. All “other federal agencies”.
 5. The identities and titles of all DOJ political appointees who decide or define what is and what is not “election disinformation.”
 6. The identities and titles of all DOJ career employees who decide or define what is and what is not “election disinformation.”
 7. The identities of all DOJ contractors and consultants who decide or define what is and what is not “election disinformation.”
- J. With respect to the phrase “Particularly concerning in this regard are several studies showing that, in some jurisdictions, nonwhite voters must wait in line substantially longer than white voters to cast their ballots” used in the Policy Address, all records sufficient to identify the following:
1. The “several studies”.
 2. The “jurisdictions”.
 3. DOJ’s legal and/or operational definition of “nonwhite”.
 4. DOJ’s legal and/or operational definition of “white”.
 5. When the Voting Section first became aware “nonwhite voters must wait in line s substantially longer than white voters to cast their ballots.”
- K. All records of communications referencing, regarding, or pertaining to the Policy Address between DOJ and any person with an email address containing eop.gov.

In addition, you have requested that the Department waive all fees associated with this request for voluminous records on the grounds that America First Legal is a non-commercial public education and news media requester. You have also requested expedited processing.

CRT’s Initial Response to the Request:

CRT has begun reviewing and processing the portions of your request that reasonably describe the requested records, including items: A 1-7 (although some of those items will require referral to other offices or components), C, D, E, and F.

For item B, we will be communicating with you about additional specificity that will enable us to conduct a reasonable search. As written, this request is exceedingly broad and would likely result in collecting and reviewing thousands of unresponsive documents. For instance, the record search would be more likely to capture relevant records if it included specific URL or email addresses.

Regarding Item G, to the extent responsive records reside within CRT, we will conduct a search or in the alternative refer your request to the appropriate Office.

Items H, I and J regarding the Attorney General's June 11, 2021 policy address are not proper FOIA requests. Those requests do not seek records, rather they are more akin to interrogatories in civil discovery and ask CRT to research records, analyze those records, conduct legal research and provide AFL with substantive answers to its questions. Under the Freedom of Information Act, agencies are not required to satisfy a request for records proving the veracity, justification or underlying determination of a specific statement by an Official as it would require an Agency to undertake research, analysis and formulation of opinions. *Hall & Assocs. v. EPA*, No. 16-5315, 2018 WL 1896493, at *2 (D.C. Cir. Apr. 9, 2018)

Fee Waiver Request:

You have requested that all fees be waived for the significant expenditure of government time and resources required to respond to your voluminous FOIA request on the grounds that AFL is a non-commercial public education and news media requester. CRT will waive fees.

Expedited Processing Request:

Your request for expedited processing is denied. You have not demonstrated that your request meets the criteria necessary for expedited processing. Moreover, as I am sure you understand, CRT receives a high volume of requests, many from requestors who also ask for expedited processing. We have a limited number of staff dedicated to responding to FOIA requests and cannot always allow new requests to take precedence over the hundreds of previously submitted requests.

Sincerely,

Kilian Kagle

Kilian Kagle, Chief
Freedom of Information/Privacy Acts Unit
Civil Rights Division