



August 9, 2022

Federal Bureau of Investigation  
Attn: Initial Processing Operations Unit  
200 Constitution Drive  
Winchester, VA 22602

**Freedom of Information Act Request: Brian Auten and Timothy Thibault**

Dear FOIA Officer:

America First Legal Foundation (“AFL”) is a national, nonprofit organization working to promote the rule of law, prevent executive overreach, protect due process and equal protection, and educate Americans about the 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 media, including social media platforms, all to educate the public and to keep government officials accountable for their duty to faithfully execute, protect, and defend 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 information to a national audience through traditional and social media platforms. For example, AFL’s employees regularly appear on radio and on cable and broadcast news programs; our email list contains over 34,000 unique addresses; our Facebook page has over 43,000 followers; our Twitter page has over 18,000 followers and the Twitter page of our Founder and President has over 199,000 followers; and we have another 30,853 followers on GETTR.

**I. Custodians**

- A. Brian Auten
- B. Timothy Thibault

**II. Requested Records**

611 Pennsylvania Ave SE #231  
Washington, DC 20003

For Custodian Auten:

- A. All emails containing the words “Hunter” and/or “Biden.” The timeframe for this request is May 1, 2018, to the date this item is fully processed.
- B. All emails containing any of the following words or terms: “Russian,” “misinformation,” “disinformation,” “malinformation,” “Trump,” “OIG,” “Steele,” “Page,” “target,” “Horowitz,” “Flynn,” “Danchenko,” “Durham,” “Sussman,” “FISA,” “Special Counsel,” “Mueller,” “Clinton,” and/or “Crossfire Hurricane.” The timeframe for this request is March 1, 2016, to the date this item is fully processed.
- C. All emails referencing or responding to Congressional requests for information and/or testimony regarding Hunter Biden, Joe Biden, Christopher Steele, or the investigation known as Crossfire Hurricane. The timeframe for this request is March 1, 2016, to the date this item is fully processed.
- D. All emails referencing or regarding the custodian’s testimony to the Senate Judiciary Committee staff on October 29, 2020. The timeframe for this request is May 1, 2020, to the date this item is fully processed.
- E. All emails referencing or responding to the request for information made by Sen. Ron Johnson and Sen. Charles Grassley dated April 16, 2020 (Exhibit 1); and/or the request for information made by Sen. Charles Grassley dated July 25, 2022 (Exhibit 2).
- F. All emails to or from Kevin Clinesmith, Lisa Page, Peter Stroz, Andrew McCabe, Bill Priestap, and/or James Comey containing any of the following words or terms: “Russian misinformation”, “Russian disinformation,” “Trump,” “Flynn,” “OIG,” “collusion,” “White House,” “Biden,” “Steele,” “Page,” “target,” “Horowitz,” “Danchenko,” “Sussman,” “Mueller,” “Clinton,” and/or “Crossfire Hurricane.” The timeframe for this request is January 1, 2016, to April 1, 2020.
- G. The custodian’s calendars between January 1, 2016, and the date this item is fully processed.

For Custodian Thibault:

- H. All emails referencing or responding to the request for information made by Sen. Charles Grassley dated July 25, 2022 (Exhibit 2).

- I. All records containing the names “Hunter Biden” and/or “James Biden.” The timeframe for this request is January 1, 2020, to the date this item is fully processed.
- J. With respect to the August 2020 FBI briefing given to Sen. Ron Johnson and Sen. Charles Grassley, (1) records sufficient to identify the name(s) of the person(s) who recommended the Senators be briefed; (2) all emails referencing that briefing; and (3) all records used in preparation for or during that briefing. The timeframe for this request is May 1, 2020, to March 1, 2021.

### III. Processing

The Federal Bureau of Investigation (“FBI”) must comply with the processing guidance in the Attorney General’s Memorandum on Freedom of Information Act Guidelines.<sup>1</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](mailto:FOIA@aflegal.org).

Also, AFL requests expedited processing of this request. In support thereof, AFL certifies its compelling need for expedited processing under 5 U.S.C. § 552(a)(6)(E) and 28 C.F.R. § 16.5(e), which provides in relevant part:

*(e) Expedited processing. (1) Requests and appeals shall be processed on an expedited basis whenever it is determined that they involve... (ii) An urgency to inform the public about an actual or alleged Federal Government activity, if made by a person who is primarily engaged in disseminating information; or (iv) A matter of widespread and exceptional media interest in which there exist possible questions about the government’s integrity that affect public confidence.*

As many federal agencies have acknowledged in granting AFL expedited processing, AFL is primarily engaged in disseminating information. Additionally, there is an urgency to inform the public regarding the circumstances surrounding the government’s concerted efforts to undermine congressional investigations and discredit negative information gathered about Hunter Biden and James Biden’s criminal financial and related activity. This is a matter of pressing national importance.

Our request also meets the FBI’s regulatory test for expedited processing based on a matter of widespread and exceptional media interest in which there exist possible questions about the government’s integrity that affect public confidence. As already

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<sup>1</sup> U.S. Dep’t of Just. (Mar. 15, 2022), <https://tinyurl.com/4duy4r5k>.

discussed, both requirements are met here, because there has been extensive public interest in Hunter Biden and James Biden's financial dealings, and because the government's ability to conduct an impartial criminal investigation clearly impacts the confidence of the public in the government's integrity. The reported actions of FBI analysts to inappropriately discredit negative information related to Hunter Biden and attempt to meddle with congressional investigations into the Biden family's financial dealings drastically undermine the confidence of the public in the integrity of the government. This request seeks to expose those circumstances to public inspection, before irreparable harm is done to the nation's interest, in violation of the law.

AFL is an organization engaged in gathering, analyzing, and disseminating information, and there is great urgency to inform the public concerning events of intense public interest. Moreover, the allegations at hand go directly to public confidence in the integrity of the government. For these reasons, our expedited processing request should be granted.

#### **IV. Fee Waiver**

Per 5 U.S.C. § 552(a)(4)(A)(iii) and applicable 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. Our 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, and 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. Accordingly, AFL has been granted fee waivers on this basis by the Departments of Defense, Education, Energy, Health and Human Services, Justice, Interior, and Homeland Security, and the Office of the Director of National Intelligence. 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 the operations or activities of the government."<sup>2</sup>

#### **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

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<sup>2</sup> 5 U.S.C. § 552(a)(4)(A)(iii).

format on a USB drive to America First Legal Foundation, 611 Pennsylvania Ave SE #231, Washington, DC 20003.

Thank you in advance for your cooperation.

Sincerely,

/s/ Tyler J. Sanderson

Tyler J. Sanderson

America First Legal Foundation

# Exhibit 1

# United States Senate

WASHINGTON, DC 20510

April 16, 2020

The Honorable Christopher A. Wray  
Director  
Federal Bureau of Investigation  
935 Pennsylvania Avenue, NW  
Washington, DC 20535

Dear Director Wray:

On January 28, 2020, we wrote to Attorney General Barr and requested the declassification of four footnotes in the Office of the Inspector General (OIG) report about the Federal Bureau of Investigation's (FBI) Crossfire Hurricane investigation.<sup>1</sup> Since then, we received declassified versions of those and other footnotes, and they reveal disturbing facts about the FBI's investigation: the Crossfire Hurricane team's investigative file included at least two intelligence reports stating that key parts of the reporting from Christopher Steele—reporting that “played a central and essential role” in the decision to request FISA orders<sup>2</sup>—were part of a Russian disinformation campaign.<sup>3</sup>

The information in the now-declassified footnotes also directly contradicts statements provided by FBI officials in the OIG report. Specifically, William “Bill” Priestap, the Assistant Director for the Counterintelligence Division who was “ultimately responsible for the [Crossfire Hurricane] investigation,”<sup>4</sup> told OIG that “the FBI ‘didn’t have any indication whatsoever’ by May 2017 that the Russians were running a disinformation campaign through the Steele election reporting.”<sup>5</sup> The investigation’s Supervisory Intelligence Analyst also told OIG that “he had no information as of June 2017 that Steele’s election reporting source network had been penetrated or compromised.”<sup>6</sup> Yet, in January 2017, the FBI received a report that part of Steele’s reporting “was part of a Russian disinformation campaign” and, in February 2017, the FBI received a second report that another part of Steele’s reporting was “the product of [Russian Intelligence Services] infiltrate[ing] a source into the network.”<sup>7</sup> We are deeply troubled by the Crossfire Hurricane team’s awareness of and apparent indifference to Russian disinformation, as well as by the grossly inaccurate statements by the FBI official in charge of the investigation and its supervisory intelligence analyst.

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<sup>1</sup> Letter from Ron Johnson & Charles E. Grassley, Chairmen, to William Barr, Attorney General (Jan. 28, 2020), <https://www.hsgac.senate.gov/media/majority-media/johnson-grassley-call-for-ag-barr-to-declassify-four-significant-footnotes-in-doj-oig-report-about-crossfire-hurricane-investigation->

<sup>2</sup> U.S. Dep’t of Justice, Office of Inspector Gen., Review of Four FISA Applications and Other Aspects of the FBI’s Crossfire Hurricane Investigation 359 (Dec. 2019), <https://www.justice.gov/storage/120919-examination.pdf> (“DOJ OIG Report”).

<sup>3</sup> DOJ OIG Report n. 350, Enclosure to Letter from Stephen E. Boyd, Assistant Attorney General, to Ron Johnson & Charles E. Grassley, Chairmen (Apr. 2, 2020), <https://www.hsgac.senate.gov/imo/media/doc/Johnson%20Letter%20-%20Footnotes%2020200402%20w%20att%20202.pdf>; DOJ OIG Report n. 350, Enclosure to Letter from Richard Grenell, Acting Director of National Intelligence, to Ron Johnson & Charles E. Grassley, Chairmen (Apr. 15, 2020), <https://www.grassley.senate.gov/sites/default/files/2020-04-15%20ODNI%20to%20CEG%20RHJ%20%28FISA%20Footnote%20Declassification%29.pdf>.

<sup>4</sup> DOJ OIG Report at 64.

<sup>5</sup> *Id.* at 194.

<sup>6</sup> DOJ OIG Report n. 342, Letter from Richard Grenell, Acting Director of National Intelligence, to Ron Johnson & Charles E. Grassley, Chairmen (Apr. 15, 2020).

<sup>7</sup> *Id.* at n. 350.

These recently declassified footnotes raise another issue of significant concern: what other parts of the FBI's investigation were infected by Russian disinformation? For example, one footnote explains that Russian Intelligence Services targeted Steele's company for penetration.<sup>8</sup> Another footnote shows that, as early as October 2016 and the same time it was preparing its first FISA application, the FBI became aware that one of Steele's key sources was either a Russian intelligence officer or otherwise linked to Russian intelligence.<sup>9</sup> In other words, the FBI knew that Russian intelligence was targeting Christopher Steele's company, that Steele relied on sources affiliated with Russian intelligence, and at least two of Steele's reports were described as the product of a Russian disinformation campaign. Because these facts show the intention, means, and ability to plant Russian disinformation in Steele's reporting, they suggest that the prevalence of such disinformation in the FBI's Crossfire Hurricane investigation may have been widespread.

For these reasons, please provide the following no later than April 30, 2020:

1. All intelligence records (*e.g.*, reporting, products, memoranda, *etc.*), foreign or domestic, received or reviewed by the Crossfire Hurricane team.<sup>10</sup> For any such intelligence record no longer in FBI's possession, please identify the record, the entity that provided the record, and the date of FBI's review.
2. All FBI records (*e.g.*, 302s, ECs, *etc.*) addressing these intelligence products;
3. A list of all intelligence records requested but not received or reviewed by the Crossfire Hurricane team.

Please send all unclassified material directly to each Committee. In keeping with the requirements of Executive Order 13526, if any of the responsive documents do contain classified information, please segregate all unclassified material within the classified documents, provide all unclassified information directly to each Committee, and provide a classified addendum to the Office of Senate Security. Although our Committees comply with all laws and regulations governing the handling of classified information, they are not bound, absent prior agreement, by any handling restrictions.

Should you have any questions, please contact Joseph Folio of Chairman Johnson's Homeland Security and Governmental Affairs Committee staff at (202) 224-4751 or Joshua Flynn-Brown of Chairman Grassley's Finance Committee staff at (202) 224-4515.

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<sup>8</sup> *Id.* at n. 342 (“[Russian Intelligence Services] may have targeted Orbis,” Steele’s company); Letter from Stephen E. Boyd, Assistant Attorney General, to Ron Johnson & Charles E. Grassley, Chairmen (Apr. 2, 2020) (explaining that the FBI was aware of “possible previous attempts by a foreign government to penetrate and research a company or individuals associated with Christopher Steele.”).

<sup>9</sup> DOJ OIG Report n. 302, Letter from Richard Grenell, Acting Director of National Intelligence, to Ron Johnson & Charles E. Grassley, Chairmen (Apr. 15, 2020); *see also id.* at n. 339 (“The Primary Sub-source also told the FBI [in January 2017] ... that the subsource who provided the information about the Carter Page-Sechin meeting had connections to Russian Intelligence Service[.]”).

<sup>10</sup> *See, e.g.*, DOJ OIG Report at 385-86 (discussing “the potential for disinformation in the Steele election reporting” and “information [OIG] found in FBI files [they] revised, and that was available to the Crossfire Hurricane team during the relevant time period”).



Sincerely,



Ron Johnson  
Chairman  
Committee on Homeland Security and  
Governmental Affairs



Charles E. Grassley  
Chairman  
Committee on Finance

cc: The Honorable William Barr  
Attorney General, Department of Justice

The Honorable Michael Horowitz  
Inspector General, Department of Justice

Ambassador Richard Grenell  
Acting Director, Office of the Director of National Intelligence

# Exhibit 2

United States Senate  
WASHINGTON, DC 20510

July 25, 2022

**VIA ELECTRONIC TRANSMISSION**

The Honorable Merrick Garland  
Attorney General  
Department of Justice

The Honorable Christopher Wray  
Director  
Federal Bureau of Investigation

Dear Attorney General Garland and Director Wray:

On May 31, 2022, I wrote to you regarding likely violations of Federal laws, regulations and Federal Bureau of Investigation (“FBI”) guidelines by Assistant Special Agent in Charge (“ASAC”) Timothy Thibault of the Washington Field Office (“WFO”) based on a pattern of active public partisanship in his then public social media content. In that letter, I noted that Congress has a constitutional responsibility to ensure that the Executive Branch executes the law and uses taxpayer money appropriated to it in accordance with congressional intent. In furtherance of that constitutional responsibility, Congress has an obligation to investigate the Executive Branch for fraud, waste, abuse and gross mismanagement – acts which undermine faith in the American people’s governmental institutions. Those constitutional and legislative responsibilities apply to this letter to you. My letter also invited individuals, including current and former government employees, to contact me and my office to confidentially report allegations of fraud, waste, abuse and gross mismanagement by FBI and Justice Department (“Department”) officials including, but not limited to, ASAC Thibault. In response, my office has received a significant number of protected communications from highly credible whistleblowers.

The information provided to my office involves concerns about the FBI’s receipt and use of derogatory information relating to Hunter Biden, and the FBI’s false portrayal of acquired evidence as disinformation. The volume and consistency of these allegations substantiate their credibility and necessitate this letter.

First, it’s been alleged that the FBI developed information in 2020 about Hunter Biden’s criminal financial and related activity. It is further alleged that in August 2020, FBI Supervisory Intelligence Analyst Brian Auten opened an assessment which was used by a FBI Headquarters (“FBI HQ”) team to improperly discredit negative Hunter Biden information as disinformation and caused investigative activity to cease. Based on allegations, verified and verifiable derogatory information on Hunter Biden was falsely labeled as disinformation.

The basis for how the FBI HQ team selected the specific information for inclusion in Auten's assessment is unknown, but in more than one instance the focus of the FBI HQ team's attention involved derogatory information about Hunter Biden. Accordingly, the allegations provided to my office appear to indicate that there was a scheme in place among certain FBI officials to undermine derogatory information connected to Hunter Biden by falsely suggesting it was disinformation.

Importantly, it's been alleged to my office that Auten's assessment was opened in August 2020, which is the same month that Senator Johnson and I received an unsolicited and unnecessary briefing from the FBI that purportedly related to our Biden investigation and a briefing for which the contents were later leaked in order paint the investigation in a false light.

As Senator Johnson and I have publicly noted, on July 13, 2020, then-Minority Leader Chuck Schumer, Senator Mark Warner, Speaker Nancy Pelosi and Representative Adam Schiff sent a letter, with a classified attachment, to the FBI to express a purported belief that Congress was the subject of a foreign disinformation campaign.<sup>1</sup> The July 13, 2020, letter included unclassified elements that, among other things, unsuccessfully attempted to tie our investigative work to foreign disinformation. Those unclassified elements were later leaked to the press to try and smear our Biden investigation as unrelated foreign disinformation. Then, on July 16, 2020, then-Ranking Member Peters and then-Ranking Member Wyden requested a briefing on matters related to my and Senator Johnson's Biden investigation from the very same FBI HQ team that discredited the derogatory Hunter Biden information.<sup>2</sup> The concurrent opening of Auten's assessment, the efforts by the FBI HQ team and the efforts by the FBI to provide an unnecessary briefing to me and Senator Johnson that provided our Democratic colleagues fodder to falsely accuse us of advancing foreign disinformation draws serious concern.

Second, it has been alleged that in September 2020, investigators from the same FBI HQ team were in communication with FBI agents responsible for the Hunter Biden information targeted by Auten's assessment. The FBI HQ team's investigators placed their findings with respect to whether reporting was disinformation in a restricted access sub-file reviewable only by the particular agents responsible for uncovering the specific information. This is problematic because it does not allow for proper oversight and opens the door to improper influence.

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<sup>1</sup> Letter from Minority Leader Charles Schumer, Vice Chairman Mark Warner, S. Select Comm. on Intelligence, Speaker Nancy Pelosi, and Chairman Adam Schiff, H. Select Comm. on Intelligence, to Fed. Bureau of Investigation (July 13, 2020), [https://intelligence.house.gov/uploadedfiles/20200713\\_big\\_4\\_letter\\_to\\_fbi\\_director\\_wray\\_-\\_defensive\\_briefing\\_signed.pdf](https://intelligence.house.gov/uploadedfiles/20200713_big_4_letter_to_fbi_director_wray_-_defensive_briefing_signed.pdf); *see also* Press Release, Nancy Pelosi Speaker of the House, Pelosi, Schumer, Schiff, Warner Send Letter to FBI Director Requesting Defensive Counterintelligence Briefing for All Members (July 20, 2020), <https://www.speaker.gov/newsroom/72020-2>.

<sup>2</sup> Letter from Ranking Member Ron Wyden, S. Comm. on Fin., and Ranking Member Gary Peters, S. Comm. on HSGAC., to Chairman Chuck Grassley, S. Comm. on Fin., and Chairman Ron Johnson, S. Comm. on HSGAC. (July 16, 2020), [https://www.hsgac.senate.gov/imo/media/doc/200716\\_Letter\\_PetersWyden\\_IntelligenceBriefingRequest.pdf](https://www.hsgac.senate.gov/imo/media/doc/200716_Letter_PetersWyden_IntelligenceBriefingRequest.pdf).

Third, in October 2020, an avenue of additional derogatory Hunter Biden reporting was ordered closed at the direction of ASAC Thibault. My office has been made aware that FBI agents responsible for this information were interviewed by the FBI HQ team in furtherance of Auten's assessment. It's been alleged that the FBI HQ team suggested to the FBI agents that the information was at risk of disinformation; however, according to allegations, all of the reporting was either verified or verifiable via criminal search warrants. In addition, ASAC Thibault allegedly ordered the matter closed without providing a valid reason as required by FBI guidelines. Despite the matter being closed in such a way that the investigative avenue might be opened later, it's alleged that FBI officials, including ASAC Thibault, subsequently attempted to improperly mark the matter in FBI systems so that it could not be opened in the future.

The aforementioned allegations put a finer point on concerns that I have raised for many years about political considerations infecting the decision-making process at the Justice Department and FBI. If these allegations are true and accurate, the Justice Department and FBI are – and have been – institutionally corrupted to their very core to the point in which the United States Congress and the American people will have no confidence in the equal application of the law. Attorney General Garland and Director Wray, simply put, based on the allegations that I've received from numerous whistleblowers, you have systemic and existential problems within your agencies. You have an obligation to the country to take these allegations seriously, immediately investigate and take steps to institute fixes to these and other matters before you.

In light of the serious allegations and my ongoing investigation into Justice Department and FBI misconduct, I expect you to provide the following no later than August 8, 2022, as a preliminary matter so that Congress can perform an objective and independent review of the alleged misconduct:

1. The case file for the Auten assessment.
2. All records<sup>3</sup> derived from reporting on derogatory information linked to Hunter Biden, James Biden, and their foreign business relationships that was overseen under the approval, guidance and purview of ASAC Thibault from January 1, 2020, to the present.
3. All records related to derogatory information on Hunter Biden, James Biden, and their foreign business relationships.
4. All leads sent to the WFO that were under the purview of ASAC Thibault that were ordered closed by ASAC Thibault and/or denied for opening by the Justice Department's Public Integrity Section.

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<sup>3</sup> "Records" include any written, recorded, or graphic material of any kind, including letters, memoranda, reports, notes, electronic data (e-mails, email attachments, and any other electronically-created or stored information), calendar entries, inter-office communications, meeting minutes, phone/voice mail or recordings/records of verbal communications, and drafts (whether or not they resulted in final documents).

5. All opened and closed cases initiated by the WFO that were under the purview of ASAC Thibault that were ordered closed by ASAC Thibault and/or denied for opening by the Justice Department's Public Integrity Section.
6. With respect to the August 2020 FBI briefing given to Senator Johnson and me:
  - a. A copy of the FBI 302 for the briefing;
  - b. All intelligence reporting, products, and analysis that formed the basis of the briefing;
  - c. The name(s) of the person(s) who recommended that Senator Johnson and I be briefed;
  - d. A description of the process for deciding to brief us; and
  - e. All records, including emails, relating to the briefing.

Sincerely,



Charles E. Grassley  
Ranking Member  
Committee on the Judiciary