

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

AMERICA FIRST LEGAL  
FOUNDATION,  
611 Pennsylvania Ave., SE #231  
Washington, D.C. 20003

*Plaintiff,*

v.

U.S. DEPARTMENT OF JUSTICE,  
950 Pennsylvania Ave., NW  
Washington, D.C. 20530-0001

*Defendant.*

Civil Action No.: 22-cv-03274

**COMPLAINT**

1. Plaintiff America First Legal Foundation (“AFL”) brings this action against the United States Department of Justice (“DOJ”), to compel compliance with the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552.

2. On his first day in office, Attorney General Garland promised that “there [would] not be one rule for Democrats and another for Republicans, one rule for friends and another for foes.” Emily Jacobs, *Merrick Garland Speaks at DOJ Before Swearing-in by VP Kamala Harris*, N.Y. POST (Mar. 11, 2021), <https://tinyurl.com/5x9wd53k>.

3. Yet, while throwing the full weight of the Department behind prosecutions of protestors expressing conservative viewpoints, DOJ has been extraordinarily lenient on individuals rioting, protesting, or committing crimes in the

name of liberal causes. DOJ has been particularly light on crimes committed in the deadly riots that occurred across the country during summer 2020. *See Updated and Reposted: RCI's Jan. 6-BLM Riots Side-by-Side Comparison*, REALCLEARINVESTIGATIONS (Jan. 4, 2022), <https://bit.ly/3lxYhSZ>.

4. On June 11, 2020, a federal grand jury indicted Colinford Mattis and Urooj Rahman on seven counts each—Use of Explosives, Arson, Using an Explosive to Commit a Felony, Arson Conspiracy, Use of a Destructive Device, Civil Disorder, and Possessing and Making a Destructive Device—for their criminal acts during the of Summer 2020, including setting fire to a New York City Police Department vehicle with a Molotov cocktail. *See United States v. Mattis*, No. 1:20-cr-00203-BMC, Doc. 21 (E.D.N.Y. filed June 11, 2020); Bill Sanderson, *Upstate Woman Admits Setting Fire to NYPD Vehicle With Four Cops Inside in George Floyd Protest, Feds Say; Two Others Charged in Separate Police Vehicle Torching*, N.Y. DAILY NEWS (May 31, 2020), <https://bit.ly/3xjv0Rm>.

5. On September 23, 2021, the government notified the Court that the Defendants had advised the government of their intent to accept a plea offer. *See United States v. Mattis*, No. 1:20-cr-00203, Doc. 62 (E.D.N.Y. filed Sep. 23, 2021).

6. Facing up to 45 years in prison each, Mattis and Rahman intended to plead guilty to Possessing and Making a Destructive Device, but critically were able to challenge the terrorism enhancements that could be assigned to the sentences for their crimes. *United States v. Mattis*, No. 1:20-cr-00203, Doc. 80 (E.D.N.Y. filed May

10, 2022). *See also* Luc Cohen, *NY Lawyers Plead Guilty in Molotov Cocktail Case; Shorter Sentences Likely*, REUTERS (June 2, 2022), <https://reut.rs/3MxOes4>.

7. On October 15, 2022, President Biden’s newly appointed United States Attorney for the Eastern District of New York, Breon Peace, was sworn in with significant praise from defense lawyers who had criticized law enforcement’s response during the 2020 protests. *See* U.S. Dep’t Just., Press Release, Breon Peace Sworn in As United States Attorney for the Eastern District of New York (Oct. 15, 2021), <https://tinyurl.com/cy7zb8hh>; Rebecca Davis O’Brien, *Can Brooklyn’s New U.S. Attorney Help Restore Faith in Law Enforcement?* N.Y. TIMES (Oct. 21, 2021), <https://nyti.ms/3QntTsH>.

8. On May 10, 2022, under new political leadership, federal prosecutors notified the United States District Court for the Eastern District of New York of a superseding plea agreement whereby “the parties have reached an alternative resolution of the charges.” Under the new plea deal Mattis and Rahman “agreed to withdraw their objections ... and the government has agreed to recommend ... the imposition of a non-Guidelines sentence within a range of 18 to 24 months’ imprisonment, well below the Guidelines sentence calculated in the PSRs.” *United States v. Mattis*, No. 20-cr-00203, Doc. 80 (E.D.N.Y. filed May 10, 2022).

9. Thus, prior to the Biden Administration’s involvement in the case, federal prosecutors had secured a guilty plea to the crime of unlawful creation and possession of Molotov cocktail incendiary devices and preserved the ability to argue for terrorism enhancements at sentencing. After the Biden Administration inserted

themselves into the process, Mattis and Rahman were charged with substantially less severe crimes, carrying lower sentences, and the government has not sought any sentencing enhancements.

10. While DOJ and the FBI are willing to brand parents who show up to school board meetings as “domestic terrorists” these actions demonstrate that they are unwilling to apply the same label to criminals who deliberately firebomb law enforcement vehicles for the Administration’s favored political causes.

11. Mattis and Rahman have also been afforded temporary bail modifications to attend events such as Parent/Teacher conferences and weddings pending final sentencing, while non-violent conservative political prisoners have not been treated so leniently.

12. Accordingly, AFL filed a FOIA request to understand the motivations and politics between the selective application of justice to individuals based on their political ideology.

13. The American public deserves to know, and needs to know, how the political interference at DOJ has resulted in leniency or harshness based on the political motivations of each criminal defendant (and whether the person becomes a criminal defendant in the first place).

### **JURISDICTION AND VENUE**

14. This Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331. Additionally, it may grant declaratory relief pursuant to 28 U.S.C. § 2201, *et seq.*

15. Venue is proper in this District pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1391(e).

### **PARTIES**

16. Plaintiff AFL is a nonprofit organization working to promote the rule of law in the United States, prevent executive overreach, ensure due process and equal protection for all Americans, and encourage public knowledge and understanding of the law and individual rights guaranteed under the United States Constitution and the laws of the United States. AFL's mission includes promoting government transparency and accountability by gathering official information, analyzing it, and disseminating it through reports, press releases, and/or other media, including social media platforms, all to educate the public.

17. Defendant DOJ is an agency under 5 U.S.C. § 552(f), with headquarters at 950 Pennsylvania Avenue, NW, Washington, D.C. 20530-0001. It has possession, custody, and control of the requested records.

### **AFL'S FOIA REQUEST**

18. On June 13, 2022, AFL submitted a narrowly tailored FOIA request to DOJ's Executive Office for United States Attorneys ("EOUSA"), Criminal Division, and Office of Information Policy ("OIP") to uncover whether political influence factored into the alternative arrangement between Mattis and Rahman and the United States. A true and original copy of the FOIA request is attached to this at Exhibit A, at 6.

19. This request sought documents sent or received between October 1, 2021, and June 6, 2022, from a limited set of custodians relating to the following:

- A. All records referring to the matter of United States v. Mattis, No. 20-cr-00203 (E.D.N.Y. filed May 30, 2020)
- B. All records referring to the defendant Colinford Mattis
- C. All records referring to the defendant Urooj Rahman
- D. All records referring to the applicability of a “terrorism enhancement”
- E. All records referring to the “case-specific mitigating facts and circumstances” referenced in the letter from United States Attorney Peace to Judge Cogan
- F. All records referring to sentencing leniency for BLM protestors

*See Ex. A, at 9.*

*EOUSA Response (EOUSA-2022-022189)*

20. On June 20, 2022, AFL received a letter from EOUSA acknowledging receipt of AFL’s FOIA request, assigning it tracking number EOUSA-2022-002189, and indicating its “final action” with respect to the request, providing the following as its sole justification:

You have requested records concerning third parties. To the extent that **non-public** responsive records exist, their disclosure could reasonably be expected to constitute an unwarranted invasion of personal privacy, absent consent of the third parties, proof of their deaths, or an overriding public interest. *See* 5 U.S.C. § 552(b)(6) & (b)(7)(C). Because any non-public records responsive to your request would be categorically exempt from disclosure, this Office

is not required to conduct a search for the requested records.

*See* Ex. A at 14.

21. On September 16, 2022, AFL appealed EOUSA's denial. *See* Ex. A at 1.

22. On September 16, 2022, AFL received from OIP a letter acknowledging receipt of AFL's administrative appeal of EOUSA's initial determination, assigning it number A-2022-02118. An original copy is attached to this Complaint as Exhibit B.

23. As of the date of this Complaint, AFL has received no further updates or communications from EOUSA about its June 13, 2022, FOIA request.

24. As of the date of this Complaint, AFL has received no further updates or communications from OIP about its September 16, 2022, administrative appeal of EOUSA's initial determination.

*Criminal Division Response (CRM-301722517)*

25. On September 22, 2022, AFL received a letter from the Criminal Division acknowledging receipt of AFL's FOIA request, assigning it file number CRM-301722517. An original copy is attached to this Complaint as Exhibit C.

26. As of the date of this Complaint, AFL has received no further updates or communications from the Criminal Division about its June 13, 2022, FOIA request.

*OIP Response (FOIA-2022-01353)*

27. On July 5, 2022, AFL received a letter from OIP acknowledging receipt of AFL's FOIA request, assigning it number FOIA-2022-01353. An original copy is attached to this Complaint as Exhibit D.

28. As of the date of this Complaint, AFL has received no further updates or communications from OIP about its June 13, 2022, FOIA request.

**CLAIM FOR RELIEF**  
**Violation of FOIA, 5 U.S.C. § 552**

29. AFL repeats paragraphs 1–28.

30. AFL properly requested records within the possession, custody, and control of DOJ.

31. DOJ failed to conduct a reasonable search for responsive records.

32. The requested records are not “categorically exempt from disclosure” pursuant to 5 U.S.C. §§ 552(b)(6), 7(C), or any other FOIA exemption.

33. Moreover, because they failed to conduct a search, DOJ failed to disclose any segregable, non-exempt portions of responsive records. *See* 5 U.S.C. § 552(b).

34. AFL properly appealed EOUSA’s denial.

35. DOJ has failed to respond to AFL’s request within the statutory time-period. *See* 5 U.S.C. § 552(a)(6).

36. Accordingly, AFL has exhausted its administrative remedies. *See* 5 U.S.C. § 552(a)(6)(C).

37. DOJ has violated FOIA by failing, within the prescribed time limit, to (i) reasonably search for records responsive to AFL’s FOIA request; (ii) provide a lawful reason for the withholding of any responsive records; make a determination with respect to AFL’s administrative appeal; (iv) grant AFL a fee waiver; and (v) segregate exempt information in otherwise non-exempt responsive records.

**PRAYER FOR RELIEF**

WHEREFORE, AFL respectfully requests that this Court:

- i. Declare that the records sought by AFL's June 13, 2022, request must be disclosed pursuant to 5 U.S.C. § 552;
- ii. Order Defendant to search immediately, demonstrating search methods reasonably likely to lead to the discovery of responsive records;
- iii. Order Defendant to produce by a date certain all non-exempt records responsive to AFL's FOIA request, accompanied by a Vaughn index of any responsive records or portions of responsive records being withheld under claim of exemption;
- iv. Order Defendant to grant AFL's request for a fee waiver;
- v. Award AFL attorneys' fees and costs incurred in this action pursuant to 5 U.S.C. § 552(a)(4)(E); and
- vi. Grant AFL such other and further relief as this Court deems proper.

October 26, 2022

Respectfully submitted,

/s/ Andrew J. Block  
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/s/ Michael Ding  
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E-mail: michael.ding@aflegal.org

*Counsel for Plaintiff  
America First Legal Foundation*



September 16, 2022

**Via FOIA STAR Portal**

Office of Information Policy  
United States Department of Justice  
441 G Street NW, 6<sup>th</sup> Floor  
Washington, DC 20530  
Attn: Director

**Freedom of Information Act Request EOUSA-2022-002189: Appeal of Denial**

Dear Director:

This appeals the U.S. Department of Justice's ("DOJ") Executive Office for United States Attorneys ("EOUSA") Freedom of Information and Privacy Staff's denial of America First Legal Foundation's ("AFL") Freedom of Information Act ("FOIA") Request No. EOUSA-2022-002189 (Exhibit 1). The justification for denial is that a FOIA request for records related to DOJ's decision to seek a minimal sentence in a politically sensitive terrorism case is an unwarranted invasion of the criminal defendant's personal privacy. This justification, however, lacks legal foundation.

**I. Standard of review**

FOIA is meant "to pierce the veil of administrative secrecy and to open agency action to the light of public scrutiny." *U.S. Dep't of State v. Ray*, 502 U.S. 164, 173 (1991) (quoting *Dep't of Air Force v. Rose*, 425 U.S. 352, 361 (1976)). FOIA "directs that 'each agency, upon any request for records ... shall make the records promptly available to any person' unless the requested records fall within one of the statute's nine exemptions." *Loving v. Dep't of Def.*, 550 F.3d 32, 37 (D.C. Cir. 2008).

Also, EOUSA is required to disclose records freely and promptly, to liberally construe AFL's requests, and to "make 'a good faith effort to search for requested records, using methods which can be reasonably expected to produce the information requested.'" *Nation Magazine v. U.S. Customs Service*, 71 F.3d 885, 890 (D.C. Cir. 1995) (quoting *Oglesby v. U.S. Dep't of Army*, 920 F.2d 57, 68). See also *NLRB v. Robbins Tire & Rubber Co.*, 437 U.S. 214, 242 (1978); *John Doe Agency v. John Doe Corp.*, 493 U.S. 146, 151 (1989). At all times, FOIA must be construed to carry out Congress's open government mandate according to the ordinary public meaning of its terms at the

time of its enactment. *See Bostock v. Clayton Cty., Georgia*, 140 S. Ct. 1731, 1738 (2020).

## II. EOUSA's decision to limit its search lacks legal foundation

EOUSA decided not to conduct a search for any specific non-public records regarding *United States v. Mattis*, No. 20-cr-00203, Doc. 21 (E.D.N.Y. filed June 11, 2020). This is the entirety of its justification:

To the extent that **non-public** responsive records exist, their disclosure to you could reasonably be expected to constitute an unwarranted invasion of personal privacy, absent consent of the third parties, proof of their deaths, or an overriding public interest. *See* 5 U.S.C. § 552(b)(6) & (b)(7)(C). Because any non-public records responsive to your request would be categorically exempt from disclosure, this Office is not required to conduct a search for the requested records.

(Exhibit 2 at 1).

Circuit law is clear: EOUSA must first conduct the search for responsive records, and then afterward determine whether each record is exempt from disclosure. “The D.C. Circuit ruled that the FOIA ‘sets forth the broad outlines of a process for agencies to follow when responding to FOIA requests: first, identify responsive records; second, identify those responsive records or portions of responsive records that are statutorily exempt from disclosure; and third, if necessary and feasible, redact exempt information from the responsive records.’” U.S. Dep’t of Just., *Guide to the Freedom of Information Act Procedural Requirements* at 58 (Aug. 20, 2021), <https://www.justice.gov/oip/page/file/1199421/download> (citing *Am. Immigr. Laws. Ass’n v. Exec. Off. For Immigr. Rev.*, 830 F.3d 667, 677 (D.C. Cir. 2016)). To the extent that any of the non-public responsive records ultimately turn out to be exempt from disclosure, they must first be identified by EOUSA in conducting a reasonable search for responsive records.

Furthermore, EOUSA incorrectly characterized the non-public records responsive to AFL’s request as “categorically exempt from disclosure.” (Exhibit 2 at 1). This is without legal basis. Agencies must initially determine whether disclosure of records would compromise a substantial, as opposed to de minimis, privacy interest, because if no significant privacy interest is implicated, then FOIA “demands disclosure.” U.S. Dep’t of Just., *Guide to the Freedom of Information Act Exemption 6* at 9 (Feb. 13, 2022), <https://bit.ly/3sQ9t1l> (citing *Multi Ag Media LLC v. USDA*, 515 F.3d 1224, 1229 (D.C. Cir. 2008)). The Attorney General reiterated this requirement in the Memorandum on Freedom of Information Act Guidelines, which prescribes a “Presumption of Openness.” U.S. Dep’t Just. (Mar. 15, 2022), <https://bit.ly/3N5sAvH>.

Therefore, EOUSA wrongly failed to explain how disclosing records pertaining to DOJ's decision-making process leading the *United States* to enter into revised plea agreements and recommend more lenient sentences could pose a real threat to the *defendants'* privacy, as it was required to do. EOUSA also wrongly failed to identify the substantial privacy interest supposedly implicated by the subject request, or otherwise demonstrate that it had fairly analyzed the body of responsive records and made a good faith decision to withhold. So even if some of the specific non-public records were exempt, EOUSA would be strongly encouraged to make discretionary disclosures of information because "[i]nformation that might technically fall within an exemption should not be withheld from a FOIA requester unless the agency can identify a foreseeable harm or legal bar to disclosure." *Id.* And even if EOUSA determines that it cannot make a full disclosure of a requested record, "FOIA requires it 'consider whether partial disclosure of information is possible.'" *Id.* (citing 5 U.S.C. § 552(a)(8)(A)(ii)).

EOUSA had a particularly acute duty to explain itself here because the information requested sheds light on whether it is using a politically motivated double standard contrary to its statutory and constitutional obligations. *See U.S. Dep't of Just. v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749, 771, 773 (1989); *Citizens for Responsibility & Ethics in Wash. v. U.S. Dep't of Just. (CREW)*, 746 F.3d 1082, 1092-96 (D.C. Cir. 2014) (holding categorical Exemption 7(C) rule inappropriate because, "On the other side of the scale sits a weighty public interest in shining a light on the FBI's investigation of major political corruption and the DOJ's ultimate decision not to prosecute a prominent member of the Congress for any involvement he may have had.").

In *CREW*, the court reaffirmed the strong public interest in the way the department carries out substantive law enforcement policy. 746 F.3d at 1093. It held that the sort of categorical withholding of records relating to the DOJ's prosecutorial decision-making at issue in this case was inappropriate. *Id.* There, as here, the relevant public interest was not to find out what the defendant was "up to" but rather how DOJ carried out its statutory duties to investigate and prosecute criminal conduct. *Id.* at 1093. And there, as here, disclosure of the requested records would have revealed much about the factors driving DOJ's exercise of prosecutorial discretion. *Id.*

The court's explanation for its ruling is apt and instructive:

We do not hold that the requested information is not exempt under Exemption 7(C). We simply hold that a *categorical* rule is inappropriate here. As *CREW* acknowledged at argument, it is likely that some of the requested information ultimately will be exempt from disclosure. For instance, the names and identifying information of third parties contained in investigative files are presumptively exempt. Much of the information sought might also be withheld under one of the exemptions

discussed *infra*. But that does not justify the blanket withholding of all responsive documents ... [T]he DOJ must attempt to make a more particularized showing as to what documents or portions thereof are exempt.

*Id.* at 1096 (citations omitted).

Here, there is a strong public interest in whether DOJ has political motivations to exercise leniency for defendants in cases arising from the BLM protests of 2020. *See Exhibit 1* at 3 n.14. Because there is weighty public interest in shining a light on the leniency demonstrated in this case, AFL is willing to work with EOUSA in good faith to address its concerns regarding privacy. But EOUSA's categorical refusal to search any specific non-public records is contrary to law and should not stand.

Sincerely,

/s/ Michael Ding  
Michael Ding  
America First Legal Foundation

# EXHIBIT 1



June 13, 2022

**Via EOUSA Portal**

Executive Office for United States Attorneys  
United States Department of Justice  
175 N Street, N.E., Suite 5.400  
Washington, DC, 20530-0001  
Attn: FOIA Officer

**Via EMAIL**

Amanda Marchand Jones, Chief FOIA/PA Unit  
Criminal Division  
United States Department of Justice  
1301 New York Ave, N.W., Suite 1127  
Washington, DC, 20530-0001  
Crm.foia@usdoj.gov

**Via FOIA STAR Portal**

Douglas Hibbard, Chief, Initial Request Staff  
Office of Information Policy  
United States Department of Justice  
441 G Street, N.W., 6th Floor  
Washington, DC, 20530  
Attn: FOIA Officer

**Freedom of Information Act Request: Lenient Plea Deal for Arsonists**

Dear FOIA Officers:

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 communicate with a national audience through traditional and social media platforms. AFL's email list contains over 33,000 unique addresses, our Facebook page has over 35,000 followers, our Twitter page has over 14,000 followers, the Twitter page of

our Founder and President has over 182,000 followers, and we have another 29,000 followers on GETTR.

From May 29 to June 9, 2020, “mostly peaceful protests” took place throughout New York City. In New York City alone, an estimated 450 businesses were looted or damaged,<sup>1</sup> and costs from property damaged and looting totaled in the “tens of millions.”<sup>2</sup> On May 30, 2020, Colinford Mattis and Urooj Rahman, two New York attorneys, were arrested in Brooklyn after Rahman threw a Molotov cocktail into a New York City Police Department (NYPD) vehicle and Mattis helped her escape from the scene.<sup>3</sup> Less than an hour before she set fire to the police vehicle, Rahman stated in a video-recorded interview that violence against law enforcement was “understandable,” and “the only way they hear us is through violence.”<sup>4</sup> A witness also photographed Rahman attempting to distribute Molotov cocktails to others,<sup>5</sup> and police found more Molotov cocktail precursor items in Mattis’s vehicle at the time of their arrest.<sup>6</sup>

On June 11, 2020, a federal grand jury indicted Mattis and Rahman on seven counts each, for Use of Explosives, Arson, Using an Explosive to Commit a Felony, Arson Conspiracy, Use of a Destructive Device, Civil Disorder, and Possessing and Making a Destructive Device.<sup>7</sup> Each defendant originally faced up to 45 years in prison, and in October 2021, each pled guilty to Count Seven of the indictment, expressed regret, but fought federal prosecutors’ effort to brand them as terrorists.<sup>8</sup>

That same month, President Biden’s newly appointed United States Attorney for the Eastern District of New York, Breon Peace, was sworn in,<sup>9</sup> receiving praise from de-

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<sup>1</sup> Noah Manskar, *450 NYC Businesses Damaged During George Floyd Protests*, N.Y. POST (June 12, 2020), <https://bit.ly/3MBid2j>; Kate King, *Hundreds of New York City Businesses Were Damaged, Looted in Recent Unrest*, WALL ST. J. (June 12, 2020), <https://on.wsj.com/39bEztD>.

<sup>2</sup> Noah Manskar and Natalie Musumeci, *Looters Cost NYC Businesses ‘Tens of Millions,’ Experts Estimate*, N.Y. POST (June 3, 2020), <https://bit.ly/3MzVROs>.

<sup>3</sup> Bill Sanderson, *Upstate Woman Admits Setting Fire to NYPD Vehicle With Four Cops Inside in George Floyd Protest, Feds Say; Two Others Charged in Separate Police Vehicle Torching*, N.Y. DAILY NEWS (May 31, 2020), <https://bit.ly/3xjv0Rm>.

<sup>4</sup> Bruce Golding, *‘Molotov Thrower’ Urooj Rahman Blames de Blasio for Not Holding Back NYPD Amid Protests*, N.Y. POST (June 5, 2020), <https://bit.ly/3ME19sm>.

<sup>5</sup> Ben Feuerherd, *Molotov Cocktail-Tossing Lawyers Tried to Pass Out Firebombs to Protesters: Feds*, N.Y. POST (June 1, 2020), <https://bit.ly/3mwobXr>.

<sup>6</sup> *Id.*

<sup>7</sup> *United States v. Mattis*, No. 20-cr-00203, Doc. 21 (E.D.N.Y. filed June 11, 2020).

<sup>8</sup> Luc Cohen, *NY Lawyers Plead Guilty in Molotov Cocktail Case; Shorter Sentences Likely*, REUTERS (June 2, 2022), <https://reut.rs/3MxOes4>.

<sup>9</sup> U.S. Dep’t Just., Press Release, *Breon Peace Sworn in As United States Attorney for the Eastern District of New York* (Oct. 15, 2021), <https://www.justice.gov/usao-edny/pr/breon-peace-sworn-united-states-attorney-eastern-district-new-york>.

fense lawyers, diversity advocates, and other prosecutors in the office who had criticized law enforcement's response during the 2020 protests.<sup>10</sup> With new political leadership and new marching orders, the federal prosecutors on the case pushed for revised plea agreements with Mattis and Rahman, recommending sentences of 18 to 24 months for conspiracy to commit arson and possess an explosive device.<sup>11</sup> In a May 10, 2022 letter to Judge Brian M. Cogan of the Eastern District of New York, Peace argued that “based on the nature and circumstances of the offense and the histories and personal characteristics of these defendants ... it would be appropriate to sentence these defendants to terms of imprisonment far below the applicable Guidelines sentence determined in the [Pre-Sentence Report].”<sup>12</sup> The letter noted that the newly recommended sentence would be below the Guidelines range even if the “terrorism enhancement were found inapplicable.”<sup>13</sup> The letter articulated nothing about the defendants’ “personal characteristics” which would merit such a lenient plea deal, but it appears relevant that the defendants were protesting a politically correct cause,<sup>14</sup> and they had politically powerful connections.<sup>15</sup>

This pattern of leniency for politically correct and politically connected criminals sharply contrasts the persecution facing political opponents of the Biden Administration. It is particularly inappropriate in light of the fact that Attorney General Merrick Garland is on record citing the threat to police officers in pledging to charge and convict those involved “on any level” in the January 6th protest.<sup>16</sup> The Department of Justice’s primary duty is to impartially enforce federal law. It should not have a lenient standard for Biden Administration allies and a much stricter standard for Biden Administration opponents.

Pursuant to 5 U.S.C. § 552(a), AFL requests the following records.

## I. Custodians

### EOUSA

<sup>10</sup> Rebecca Davis O’Brien, *Can Brooklyn’s New U.S. Attorney Help Restore Faith in Law Enforcement?* N.Y. TIMES (Oct. 21, 2021), <https://nyti.ms/3QntTsH>.

<sup>11</sup> Luc Cohen, *NY Lawyers Plead Guilty in Molotov Cocktail Case; Shorter Sentences Likely*, REUTERS (June 2, 2022), <https://reut.rs/3MxOes4>.

<sup>12</sup> *United States v. Mattis*, No. 20-cr-00203, Doc. 80 at 3 (E.D.N.Y. filed May 10, 2022).

<sup>13</sup> *Id.* at 4.

<sup>14</sup> See, e.g., America First Legal Foundation, *AFL Sues Biden Admin for Records Relating to Leniency for a BLM Rioter and Arsonist* (May 23, 2022), <https://bit.ly/3aRpHB1>.

<sup>15</sup> See, e.g., Gregg Re, *Obama-Era Ex-intel Official Secures Bail for NYC Lawyer Suspected of Hurling Molotov Cocktail in George Floyd Unrest*, FOX NEWS (June 7, 2020), <https://fxn.ws/3MxOAYU>.

<sup>16</sup> Jonathan Turley, *New York Attorneys Accused of Firebombing Police Car Given Generous Plea Deal*, RES IPSA LOQUITUR (June 5, 2022), <https://bit.ly/3xxkWW4> (citing Nicole Sganga, *Garland Says “The Actions We Have Taken Thus Far” on January 6 Rioters “Will Not Be Our Last”*, CBS NEWS (Jan. 6, 2022), <https://cbsn.ws/3xwvwN0>). See also, Editors, *Updated and Reposted: RealClearInvestigations’ Jan. 6-BLM Riots Comparison*, REALCLEARINVESTIGATIONS (Jan 4, 2022), <https://bit.ly/3lxYhSZ>.

- A. EOUSA Director Monty Wilkinson
- B. United States Attorney Breon Peace
- C. First Assistant United States Attorney for the Eastern District of New York (name unknown)
- D. Assistant United States Attorney Ian C. Richardson
- E. Assistant United States Attorney Jonathan E. Algor

### Criminal Division

- A. All political appointees and career employees with a grade of or equivalent to GS-14 or higher in the Office of the Assistant Attorney General

### OIP

- A. All political appointees and career employees with a grade of or equivalent to GS-14 or higher in the Office of the Attorney General
- B. All political appointees and career employees with a grade of or equivalent to GS-14 or higher in the Office of the Deputy Attorney General
- C. All political appointees and career employees with a grade of or equivalent to GS-14 or higher in the Office of Public Affairs
- D. All political appointees and career employees with a grade of or equivalent to GS-14 or higher in the Office of Legislative Affairs

## **II. Records Request**

The timeframe for each request is October 1, 2021 to June 6, 2022.

- A. All records referring to the matter *United States v. Mattis*, No. 20-cr-00203 (E.D.N.Y. filed May 30, 2020)
- B. All records referring to the defendant Colinford Mattis
- C. All records referring to the defendant Urooj Rahman
- D. All records referring to the applicability of a “terrorism enhancement”
- E. All records referring to the “case-specific mitigating facts and circumstances” referenced in the letter from United States Attorney Peace to Judge Cogan<sup>17</sup>
- F. All records referring to sentencing leniency for BLM protestors

## **III. Processing**

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<sup>17</sup> *United States v. Mattis*, No. 20-cr-00203, Doc. 80 at 4 (E.D.N.Y. filed May 10, 2022).

The Department of Justice must comply with the processing guidance in the Attorney General's Memorandum on Freedom of Information Guidelines.<sup>18</sup> This means, among other things, the following.

- You may withhold responsive records only if: (1) the agency reasonably foresees that disclosure would harm an interest protected by one of the nine exemptions that FOIA enumerates; or (2) disclosure is prohibited by law.
- Information that might technically fall within an exemption should not be withheld unless you can identify a foreseeable harm or legal bar to disclosure. In case of doubt, openness should prevail.
- If you cannot make full disclosure of a requested record, then the FOIA requires that you consider whether partial disclosure of information is possible and take reasonable steps necessary to segregate and release nonexempt information.
- You must properly apply the foreseeable harm standard by confirming for and demonstrating to AFL that you have considered the foreseeable harm standard when reviewing records and applying FOIA exemptions.
- Redactions are disfavored as the FOIA's exemptions are exclusive and must be narrowly construed. If a record contains information responsive to a FOIA request, then you must disclose the entire record, as a single record cannot be split into responsive and non-responsive bits. AFL's 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 locations and systems likely to have responsive records, regardless of format, medium, or physical characteristics. In conducting your search, please give full effect to all applicable authorities and broadly construe our Item and your obligations to provide responsive records.
- 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 records to official systems within a

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<sup>18</sup> U.S. Dep't Just. (Mar. 15, 2022), <https://www.justice.gov/ag/page/file/1483516/download>.

certain time. AFL has a right to records 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 available tools to conduct a complete and efficient search for potentially responsive records. Many agencies have adopted the National Archives and Records Administration (“NARA”) Capstone program or similar policies. These provide options for searching emails and other electronic records in a manner 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, then 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 before our Items are processed. If potentially responsive records are subject to potential deletion, including on a scheduled basis, please prevent deletion by instituting a litigation hold or other appropriate measures.

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

Per 5 U.S.C. § 552(a)(4)(A)(iii), 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. This has previously been recognized by the Departments of Defense, Education, Energy, 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>19</sup> Questions arising from the events relating to the requested records have generated significant media attention.<sup>20</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 format on a USB drive. Please send any responsive records being transmitted by mail to America First Legal Foundation, 611 Pennsylvania Ave SE #231, Washington, DC 20003.

If you have any questions about this request or believe further discussions regarding search and processing will speed the efficient production of records of interest to AFL, then please contact me at [FOIA@aflegal.org](mailto:FOIA@aflegal.org). Finally, please contact us immediately if AFL’s request for a fee waiver is not granted in full. Thank you in advance for your cooperation.

Sincerely,

/s/ Michael Ding  
Michael Ding  
America First Legal Foundation

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<sup>19</sup> 5 U.S.C. § 552(a)(4)(A)(iii).

<sup>20</sup> See, e.g., Luc Cohen, *NY Lawyers Plead Guilty in Molotov Cocktail Case; Shorter Sentences Likely*, REUTERS (June 2, 2022), <https://reut.rs/3MxOes4>; Jonathan Turley, *New York Attorneys Accused of Firebombing Police Car Given Generous Plea Deal*, RES IPSA LOQUITUR (June 5, 2022), <https://bit.ly/3xxkWW4>.

# EXHIBIT 2



**U.S. Department of Justice**

Executive Office for United States Attorneys

Freedom of Information and Privacy Staff

*Suite 5.400, 3CON Building  
175N Street, NE  
Washington, DC 20530*

*(202) 252-6020*

June 20, 2022

VIA E-mail

Reed Rubinstein  
American First Legal Foundation  
foia@aflegal.org

Re: Request Number: EOUSA-2022-002189  
Date of Receipt: June 13, 2022  
Subject of Request:

Dear Mr. Rubinstein:

This letter acknowledges receipt of your Freedom of Information Act/Privacy Act (FOIA) request in the Executive Office for United States Attorneys (EOUSA). Your request has been assigned tracking number EOUSA-2022-002189. Please refer to this number in any future correspondence with this Office.

You have requested records concerning third parties. To the extent that **non-public** responsive records exist, their disclosure to you could reasonably be expected to constitute an unwarranted invasion of personal privacy, absent consent of the third parties, proof of their deaths, or an overriding public interest. *See* 5 U.S.C. § 552(b)(6) & (b)(7)(C). Because any non-public records responsive to your request would be categorically exempt from disclosure, this Office is not required to conduct a search for the requested records. Please be advised that we have considered the foreseeable harm standard when reviewing records and applying FOIA exemptions.

Should you obtain the written authorization and consent of the third party for release of the records to you, please submit a new request for the documents accompanied by the written authorization. A form is enclosed to assist you in providing us the authorization and consent of the subject of your request. Your name should appear in the section titled "Optional." The authorization must be notarized or signed under penalty of perjury pursuant to 18 U.S.C. § 1001. Please send your new request to 175 N Street, NE, Suite 5.400, Washington, DC 20530.

This is the final action on this above-numbered request. If you are not satisfied with my response to this request, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, 441 G Street, NW, 6th Floor, Washington, D.C. 20530, or you may submit an appeal through OIP's FOIA STAR portal by creating an account following the instructions on OIP's website: <https://www.justice.gov/oip/submit-and-track->

request-or-appeal. Your appeal must be postmarked or electronically transmitted within 90 days of the date of my response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal."

You may contact our FOIA Public Liaison at the Executive Office for United States Attorneys (EOUSA) for any further assistance and to discuss any aspect of your request. The contact information for EOUSA is 175 N Street, NE, Suite 5.400, Washington, DC 20530; telephone at 202-252-6020. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001; e-mail at [ogis@nara.gov](mailto:ogis@nara.gov); telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Sincerely,



Kevin Krebs  
Assistant Director

Enclosure

U.S. Department of Justice

## Certification of Identity



FORM APPROVED OMB NO. 1103-0016  
EXPIRES 05/31/2023

**Privacy Act Statement.** In accordance with 28 CFR Section 16.41(d) personal data sufficient to identify the individuals submitting requests by mail under the Privacy Act of 1974, 5 U.S.C. Section 552a, is required. The purpose of this solicitation is to ensure that the records of individuals who are the subject of U.S. Department of Justice systems of records are not wrongfully disclosed by the Department. Requests will not be processed if this information is not furnished. False information on this form may subject the requester to criminal penalties under 18 U.S.C. Section 1001 and/or 5 U.S.C. Section 552a(i)(3).

Public reporting burden for this collection of information is estimated to average 0.50 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Suggestions for reducing this burden may be submitted to the Office of Information and Regulatory Affairs, Office of Management and Budget, Public Use Reports Project (1103-0016), Washington, DC 20503.

Full Name of Requester <sup>1</sup> \_\_\_\_\_

Citizenship Status <sup>2</sup> \_\_\_\_\_ Social Security Number <sup>3</sup> \_\_\_\_\_

Current Address \_\_\_\_\_

Date of Birth \_\_\_\_\_ Place of Birth \_\_\_\_\_

**OPTIONAL: Authorization to Release Information to Another Person**

This form is also to be completed by a requester who is authorizing information relating to himself or herself to be released to another person.

Further, pursuant to 5 U.S.C. Section 552a(b), I authorize the U.S. Department of Justice to release any and all information relating to me to:

\_\_\_\_\_  
**Print or Type Name**

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that I am the person named above, and I understand that any falsification of this statement is punishable under the provisions of 18 U.S.C. Section 1001 by a fine of not more than \$10,000 or by imprisonment of not more than five years or both, and that requesting or obtaining any record(s) under false pretenses is punishable under the provisions of 5 U.S.C. 552a(i)(3) by a fine of not more than \$5,000.

Signature <sup>4</sup> \_\_\_\_\_ Date \_\_\_\_\_

<sup>1</sup>Name of individual who is the subject of the record(s) sought.

<sup>2</sup>Individual submitting a request under the Privacy Act of 1974 must be either "a citizen of the United States or an alien lawfully admitted for permanent residence," pursuant to 5 U.S.C. Section 552a(a)(2). Requests will be processed as Freedom of Information Act requests pursuant to 5 U.S.C. Section 552, rather than Privacy Act requests, for individuals who are not United States citizens or aliens lawfully admitted for permanent residence.

<sup>3</sup>Providing your social security number is voluntary. You are asked to provide your social security number only to facilitate the identification of records relating to you. Without your social security number, the Department may be unable to locate any or all records pertaining to you.

<sup>4</sup>Signature of individual who is the subject of the record sought.



**U.S. Department of Justice**  
Office of Information Policy  
*Sixth Floor*  
*441 G Street, NW*  
*Washington, DC 20530-0001*

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Telephone: (202) 514-3642

September 16, 2022

foia@aflegal.org

Dear Michael Ding:

This is to advise you that the Office of Information Policy (OIP) of the U.S. Department of Justice received your administrative appeal from the action of the EOUSA regarding Request No. EOUSA-2022-002189 on 09/16/2022.

In an attempt to afford each appellant equal and impartial treatment, OIP has adopted a general practice of assigning appeals in the approximate order of receipt. Your appeal has been assigned number A-2022-02118. Please refer to this number in any future communication with OIP regarding this matter. Please note that if you provided an email address or another electronic means of communication with your request or appeal, this Office may respond to your appeal electronically even if you submitted your appeal to this Office via regular U.S. Mail.

We will notify you of the decision on your appeal as soon as we can. If you have any questions about the status of your appeal, you may contact me at (202) 514-3642. If you have submitted your appeal through FOIA STAR, you may also check the status of your appeal by logging into your account.

Sincerely,

*Priscilla Jones*

Priscilla Jones  
Supervisory Administrative Specialist



**U.S. Department of Justice**

Criminal Division

*Office of Enforcement Operations*

*Washington, D.C. 20530*

**VIA Electronic Mail**

September 22, 2022

Mr. Michael Ding  
America First Legal Foundation  
#231  
611 Pennsylvania Ave SE  
Washington, DC 20003  
[FOIA@aflegal.org](mailto:FOIA@aflegal.org)

Request No. CRM-301722517  
Subject: Lenient Plea Deal for Arsonists  
(Parts D and F)

Dear Mr. Ding:

The Criminal Division acknowledges receipt of your Freedom of Information Act request dated June 13, 2022. Your request was received in this Office on June 13, 2022. In that request, you asked for access to records concerning the above-mentioned subject. Your request has been assigned file number CRM-301722517. You should refer to this number in any future correspondence with this Office.

- Your request has been received by the Freedom of Information Act/Privacy Act Unit and we are searching the section(s) most likely to maintain responsive records.
- Because your request presents “unusual circumstances” (See 5 U.S.C. § 552(a)(6)(B)(i)-(iii)), we are extending the time limit to respond to your request beyond the ten additional days provided by the statute.
- We have not yet made a decision on your request for a fee waiver. We will do so after we determine whether the processing of your request will result in any assessable fees.
- We have not yet made a decision on your request for preferred fee status. We will do so after we determine whether the processing of your request will result in any assessable fees.
- Your request for expedited treatment has been:
  - Granted. Accordingly, your request has been assigned to a Government Information Specialist in this Office and we will respond to your request as soon as practicable.
  - Denied. If you are not satisfied with the Criminal Division’s determination in response to this request, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, 441 G Street, NW, 6th Floor, Washington, D.C. 20530, or you may submit an

appeal through OIP's FOIA STAR portal by creating an account on the following website: <https://www.justice.gov/oip/submit-and-track-request-or-appeal>. Your appeal must be postmarked or electronically transmitted within 90 days of the date of my response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal."

After carefully considering your request, we concluded that another component of the U.S. Department of Justice maintains the records you seek for Parts A, B, C, and E. Hence, your request was routed to the Executive Office for United States Attorneys (EOUSA) for processing and a direct response to you. If you have any questions about the status of your routed request, you may contact the EOUSA at the following address:

Executive Office for United States Attorneys  
Department of Justice  
175 N Street, N.E.  
Suite 5.400  
Washington, DC 20530

I assure you that your request will be processed as soon as possible. If you have any questions or wish to discuss reformulation or an alternative time frame for the processing of your request, you may contact me by telephone at (202) 616-0307, by email at [crm.foia@usdoj.gov](mailto:crm.foia@usdoj.gov), or by mail at the Criminal Division, U.S. Department of Justice, Room 803, Keeney Building, NW, Washington, DC 20530-0001.

You may contact our FOIA Public Liaison at the telephone number listed above for any further assistance and to discuss any aspect of your request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, Maryland 20740-6001; e-mail at [ogis@nara.gov](mailto:ogis@nara.gov); telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Sincerely,

FOIA/PA Unit  
Criminal Division  
U.S. Department of Justice



**U.S. Department of Justice**  
Office of Information Policy  
Sixth Floor  
441 G Street, NW  
Washington, DC 20530-0001

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Telephone: (202) 514-3642

July 5, 2022

Michael Ding  
America First Legal Foundation  
611 Pennsylvania Avenue, SE  
#231  
Washington, DC 20003  
[michael.ding@aflegal.org](mailto:michael.ding@aflegal.org)

Re: FOIA-2022-01353

Dear Michael Ding:

This is to acknowledge receipt of your Freedom of Information Act (FOIA) request dated and received in this Office on June 13, 2022, in which you requested records from the Office of the Attorney General, Office of the Deputy Attorney General, Office of Public Affairs, and Office of Legislative Affairs concerning *U.S. v. Mattis* from October 1, 2021, to June 6, 2022.

The records you seek require a search in and/or consultation with another Office, and so your request falls within “unusual circumstances.” See 5 U.S.C. 552 § (a)(6)(B)(i)-(iii) (2018). Because of these unusual circumstances, we need to extend the time limit to respond to your request beyond the ten additional days provided by the statute. For your information, we use multiple tracks to process requests, but within those tracks we work in an agile manner, and the time needed to complete our work on your request will necessarily depend on a variety of factors, including the complexity of our records search, the volume and complexity of any material located, and the order of receipt of your request. At this time we have assigned your request to the complex track. In an effort to speed up our process, you may wish to narrow the scope of your request to limit the number of potentially responsive records so that it can be placed in a different processing track. You can also agree to an alternative time frame for processing, should records be located, or you may wish to await the completion of our records search to discuss either of these options. Any decision with regard to the application of fees will be made only after we determine whether fees will be implicated for this request.

We regret the necessity of this delay, but we assure you that your request will be processed as soon as possible. If you have any questions or wish to discuss reformulation or an alternative time frame for the processing of your request, you may contact this Office by telephone at the above number, by e-mail at [doj.oip.foia@usdoj.gov](mailto:doj.oip.foia@usdoj.gov), or you may write to the Office of Information Policy, United States Department of Justice, Sixth Floor, 441 G Street, NW, Washington, DC 20530-0001. Lastly, you may contact our FOIA Public Liaison, Valeree Villanueva, at the telephone number listed above to discuss any aspect of your request.

-2-

Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, Maryland 20740-6001; e-mail at [ogis@nara.gov](mailto:ogis@nara.gov); telephone at 202-741-5770; toll free at 1-877-684-6448.

Sincerely,  
Initial Request Staff  
Office of Information Policy  
U.S. Department of Justice

CIVIL COVER SHEET

JS-44 (Rev. 11/2020 DC)

<p><b>I. (a) PLAINTIFFS</b>                  America First Legal Foundation                  611 Pennsylvania Ave., SE #231                  Washington, D.C. 20003</p> <p>(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF (EXCEPT IN U.S. PLAINTIFF CASES) <u>11001</u></p> <p>(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)                  Andrew Block, D.C. Bar No.90002845                  America First Legal Foundation                  611 Pennsylvania Ave., SE #231                  Washington, D.C. 20003 <u>(202) 836-7958</u></p>	<p><b>DEFENDANTS</b>                  U.S. DEPARTMENT OF JUSTICE,                  950 Pennsylvania Ave., NW                  Washington, D.C. 20530-0001</p> <p>COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT (IN U.S. PLAINTIFF CASES ONLY) <u>11001</u></p> <p><small>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED</small></p> <p>ATTORNEYS (IF KNOWN)</p>																								
<p><b>II. BASIS OF JURISDICTION</b>                  (PLACE AN X IN ONE BOX ONLY)</p> <p><input type="radio"/> 1 U.S. Government Plaintiff      <input type="radio"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input checked="" type="radio"/> 2 U.S. Government Defendant      <input type="radio"/> 4 Diversity (Indicate Citizenship of Parties in item III)</p>	<p><b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT) <b>FOR DIVERSITY CASES ONLY!</b></p> <table style="width:100%; border: none;"> <tr> <td></td> <td style="text-align: center;"><b>PTF</b></td> <td style="text-align: center;"><b>DFT</b></td> <td></td> <td style="text-align: center;"><b>PTF</b></td> <td style="text-align: center;"><b>DFT</b></td> </tr> <tr> <td>Citizen of this State</td> <td style="text-align: center;"><input type="radio"/> 1</td> <td style="text-align: center;"><input type="radio"/> 1</td> <td>Incorporated or Principal Place of Business in This State</td> <td style="text-align: center;"><input type="radio"/> 4</td> <td style="text-align: center;"><input type="radio"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="radio"/> 2</td> <td style="text-align: center;"><input type="radio"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td style="text-align: center;"><input type="radio"/> 5</td> <td style="text-align: center;"><input type="radio"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="radio"/> 3</td> <td style="text-align: center;"><input type="radio"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="radio"/> 6</td> <td style="text-align: center;"><input type="radio"/> 6</td> </tr> </table>		<b>PTF</b>	<b>DFT</b>		<b>PTF</b>	<b>DFT</b>	Citizen of this State	<input type="radio"/> 1	<input type="radio"/> 1	Incorporated or Principal Place of Business in This State	<input type="radio"/> 4	<input type="radio"/> 4	Citizen of Another State	<input type="radio"/> 2	<input type="radio"/> 2	Incorporated and Principal Place of Business in Another State	<input type="radio"/> 5	<input type="radio"/> 5	Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6
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Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6																				

**IV. CASE ASSIGNMENT AND NATURE OF SUIT**

(Place an X in one category, A-N, that best represents your Cause of Action and one in a corresponding Nature of Suit)

<p><input type="radio"/> <b>A. Antitrust</b></p> <p><input type="checkbox"/> 410 Antitrust</p>	<p><input type="radio"/> <b>B. Personal Injury/Malpractice</b></p> <p><input type="checkbox"/> 310 Airplane</p> <p><input type="checkbox"/> 315 Airplane Product Liability</p> <p><input type="checkbox"/> 320 Assault, Libel &amp; Slander</p> <p><input type="checkbox"/> 330 Federal Employers Liability</p> <p><input type="checkbox"/> 340 Marine</p> <p><input type="checkbox"/> 345 Marine Product Liability</p> <p><input type="checkbox"/> 350 Motor Vehicle</p> <p><input type="checkbox"/> 355 Motor Vehicle Product Liability</p> <p><input type="checkbox"/> 360 Other Personal Injury</p> <p><input type="checkbox"/> 362 Medical Malpractice</p> <p><input type="checkbox"/> 365 Product Liability</p> <p><input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability</p> <p><input type="checkbox"/> 368 Asbestos Product Liability</p>	<p><input type="radio"/> <b>C. Administrative Agency Review</b></p> <p><input type="checkbox"/> 151 Medicare Act</p> <p><u>Social Security</u></p> <p><input type="checkbox"/> 861 HIA (1395ff)</p> <p><input type="checkbox"/> 862 Black Lung (923)</p> <p><input type="checkbox"/> 863 DIWC/DIWW (405(g))</p> <p><input type="checkbox"/> 864 SSID Title XVI</p> <p><input type="checkbox"/> 865 RSI (405(g))</p> <p><u>Other Statutes</u></p> <p><input type="checkbox"/> 891 Agricultural Acts</p> <p><input type="checkbox"/> 893 Environmental Matters</p> <p><input type="checkbox"/> 890 Other Statutory Actions (If Administrative Agency is Involved)</p>	<p><input type="radio"/> <b>D. Temporary Restraining Order/Preliminary Injunction</b></p> <p>Any nature of suit from any category may be selected for this category of case assignment.</p> <p>*(If Antitrust, then A governs)*</p>
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**E. General Civil (Other)**      OR       **F. Pro Se General Civil**

<p><u>Real Property</u></p> <p><input type="checkbox"/> 210 Land Condemnation</p> <p><input type="checkbox"/> 220 Foreclosure</p> <p><input type="checkbox"/> 230 Rent, Lease &amp; Ejectment</p> <p><input type="checkbox"/> 240 Torts to Land</p> <p><input type="checkbox"/> 245 Tort Product Liability</p> <p><input type="checkbox"/> 290 All Other Real Property</p> <p><u>Personal Property</u></p> <p><input type="checkbox"/> 370 Other Fraud</p> <p><input type="checkbox"/> 371 Truth in Lending</p> <p><input type="checkbox"/> 380 Other Personal Property Damage</p> <p><input type="checkbox"/> 385 Property Damage Product Liability</p>	<p><u>Bankruptcy</u></p> <p><input type="checkbox"/> 422 Appeal 27 USC 158</p> <p><input type="checkbox"/> 423 Withdrawal 28 USC 157</p> <p><u>Prisoner Petitions</u></p> <p><input type="checkbox"/> 535 Death Penalty</p> <p><input type="checkbox"/> 540 Mandamus &amp; Other</p> <p><input type="checkbox"/> 550 Civil Rights</p> <p><input type="checkbox"/> 555 Prison Conditions</p> <p><input type="checkbox"/> 560 Civil Detainee – Conditions of Confinement</p> <p><u>Property Rights</u></p> <p><input type="checkbox"/> 820 Copyrights</p> <p><input type="checkbox"/> 830 Patent</p> <p><input type="checkbox"/> 835 Patent – Abbreviated New Drug Application</p> <p><input type="checkbox"/> 840 Trademark</p> <p><input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 (DTSA)</p>	<p><u>Federal Tax Suits</u></p> <p><input type="checkbox"/> 870 Taxes (US plaintiff or defendant)</p> <p><input type="checkbox"/> 871 IRS-Third Party 26 USC 7609</p> <p><u>Forfeiture/Penalty</u></p> <p><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881</p> <p><input type="checkbox"/> 690 Other</p> <p><u>Other Statutes</u></p> <p><input type="checkbox"/> 375 False Claims Act</p> <p><input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))</p> <p><input type="checkbox"/> 400 State Reapportionment</p> <p><input type="checkbox"/> 430 Banks &amp; Banking</p> <p><input type="checkbox"/> 450 Commerce/ICC Rates/etc</p> <p><input type="checkbox"/> 460 Deportation</p> <p><input type="checkbox"/> 462 Naturalization Application</p>	<p><input type="checkbox"/> 465 Other Immigration Actions</p> <p><input type="checkbox"/> 470 Racketeer Influenced &amp; Corrupt Organization</p> <p><input type="checkbox"/> 480 Consumer Credit</p> <p><input type="checkbox"/> 485 Telephone Consumer Protection Act (TCPA)</p> <p><input type="checkbox"/> 490 Cable/Satellite TV</p> <p><input type="checkbox"/> 850 Securities/Commodities/Exchange</p> <p><input type="checkbox"/> 896 Arbitration</p> <p><input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision</p> <p><input type="checkbox"/> 950 Constitutionality of State Statutes</p> <p><input type="checkbox"/> 890 Other Statutory Actions (if not administrative agency review or Privacy Act)</p>
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<input type="radio"/> <b>G. Habeas Corpus/ 2255</b>  <input type="checkbox"/> 530 Habeas Corpus – General <input type="checkbox"/> 510 Motion/Vacate Sentence <input type="checkbox"/> 463 Habeas Corpus – Alien Detainee	<input type="radio"/> <b>H. Employment Discrimination</b>  <input type="checkbox"/> 442 Civil Rights – Employment (criteria: race, gender/sex, national origin, discrimination, disability, age, religion, retaliation)  *(If pro se, select this deck)*	<input checked="" type="radio"/> <b>I. FOIA/Privacy Act</b>  <input checked="" type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 890 Other Statutory Actions (if Privacy Act)  *(If pro se, select this deck)*	<input type="radio"/> <b>J. Student Loan</b>  <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (excluding veterans)
<input type="radio"/> <b>K. Labor/ERISA (non-employment)</b>  <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Labor Railway Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="radio"/> <b>L. Other Civil Rights (non-employment)</b>  <input type="checkbox"/> 441 Voting (if not Voting Rights Act) <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 445 Americans w/Disabilities – Employment <input type="checkbox"/> 446 Americans w/Disabilities – Other <input type="checkbox"/> 448 Education	<input type="radio"/> <b>M. Contract</b>  <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholder's Suits <input type="checkbox"/> 190 Other Contracts <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<input type="radio"/> <b>N. Three-Judge Court</b>  <input type="checkbox"/> 441 Civil Rights – Voting (if Voting Rights Act)

**V. ORIGIN**  
 1 Original Proceeding  
  2 Removed from State Court  
  3 Remanded from Appellate Court  
  4 Reinstated or Reopened  
  5 Transferred from another district (specify)  
  6 Multi-district Litigation  
  7 Appeal to District Judge from Mag. Judge  
  8 Multi-district Litigation – Direct File

**VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)**  
 Violation of FOIA, 5 U.S.C. § 552, failing to make determination on appeal and to release responsive, non-exempt records

<b>VII. REQUESTED IN COMPLAINT</b>	<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23	<b>DEMAND \$</b>	<b>JURY DEMAND:</b> YES <input type="checkbox"/> NO <input type="checkbox"/>
<b>VIII. RELATED CASE(S) IF ANY</b>	(See instruction)	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	If yes, please complete related case form

DATE: 10/26/2022	SIGNATURE OF ATTORNEY OF RECORD
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**INSTRUCTIONS FOR COMPLETING CIVIL COVER SHEET JS-44**  
 Authority for Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and services of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. Listed below are tips for completing the civil coversheet. These tips coincide with the Roman Numerals on the cover sheet.

- I. COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF/DEFENDANT (b) County of residence: Use 11001 to indicate plaintiff if resident of Washington, DC, 88888 if plaintiff is resident of United States but not Washington, DC, and 99999 if plaintiff is outside the United States.
- III. CITIZENSHIP OF PRINCIPAL PARTIES: This section is completed only if diversity of citizenship was selected as the Basis of Jurisdiction under Section II.
- IV. CASE ASSIGNMENT AND NATURE OF SUIT: The assignment of a judge to your case will depend on the category you select that best represents the primary cause of action found in your complaint. You may select only one category. You must also select one corresponding nature of suit found under the category of the case.
- VI. CAUSE OF ACTION: Cite the U.S. Civil Statute under which you are filing and write a brief statement of the primary cause.
- VIII. RELATED CASE(S), IF ANY: If you indicated that there is a related case, you must complete a related case form, which may be obtained from the Clerk's Office.

Because of the need for accurate and complete information, you should ensure the accuracy of the information provided prior to signing the form.

AO 440 (Rev. 06/12; DC 3/15) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

America First Legal Foundation

Plaintiff(s)

v.

U.S. DEPARTMENT OF JUSTICE

Defendant(s)

Civil Action No. 22-cv-03274

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) U.S. Attorney General
U.S. DEPARTMENT OF JUSTICE,
950 Pennsylvania Ave., NW
Washington, D.C. 20530-0001

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Andrew Block
America First Legal Foundation
611 Pennsylvania Ave., SE #231
Washington, D.C. 20003

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ANGELA D. CAESAR, CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

Civil Action No. 22-cv-03274

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_ .

I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* \_\_\_\_\_ , who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I returned the summons unexecuted because \_\_\_\_\_ ; or

Other *(specify)*:

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00 \_\_\_\_\_ .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12; DC 3/15) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

America First Legal Foundation

Plaintiff(s)

v.

U.S. DEPARTMENT OF JUSTICE

Defendant(s)

Civil Action No. 22-cv-03274

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) U.S. Attorney for the District of Columbia
555 4th St NW, Washington, DC 20530

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Andrew Block
America First Legal Foundation
611 Pennsylvania Ave., SE #231
Washington, D.C. 20003

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ANGELA D. CAESAR, CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

Civil Action No. 22-cv-03274

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_ .

I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* \_\_\_\_\_ , who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I returned the summons unexecuted because \_\_\_\_\_ ; or

Other *(specify)*:

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00 \_\_\_\_\_ .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc: