



November 5, 2021

Via Online Portal

Douglas Hibbard, Chief, Initial Request Staff
Office of Information Policy
U.S. Department of Justice
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Washington, D.C. 20530-0001

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Michael G. Seidel, Section Chief
Records Management Division
Federal Bureau of Investigation
Department of Justice
200 Constitution Drive
Winchester, VA 22602

Freedom of Information Act Request: Russia Collusion

Dear Mr. Hibbard, Ms. Jones, and Mr. Seidel:

America First Legal Foundation (AFL) 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.

The recent Grand Jury indictments against Michael A. Sussman of the Perkins Coie law firm and Igor Y. Danchenko are powerful evidence that the charges of “Russian collusion” made by high-ranking Department of Justice employees, Democrat operatives and elected officials, and their media instrumentalities against President Donald J. Trump, his family, and his campaign, were fabricated lies. From the beginning, President Trump said the Mueller investigation “should never have been started”, and he was correct, for that investigation was nothing more nor less than the poisonous fruit of a calculated assault against our Constitutional Republic aimed at overturning the 2016 Presidential election. The perpetrators of this scandal must be exposed. Accordingly, pursuant to 5 U.S.C. § 552(a), we make the following Freedom of Information Act request.

I. Special Definitions

“CrimDiv” means (a) any political appointee, and (b) any career employee with a grade of GS-15 or above, in the Criminal Division.

“FBI” means any person in the Federal Bureau of Investigation with a grade of GS-15 or above.

“OAG” means any political appointee in the Office of the Attorney General.

“ODAG” means (a) any political appointee, and (b) any career employee with a grade of GS-14 or above, in the Office of the Deputy Attorney General.

“OLA” means any political appointee in the Office of Legislative Affairs.

“OPA” means any political appointee in the Office of Public Affairs.

“Perkins Coie” means any person with an email address containing “@perkinscoie.com”

“Record” has the meaning given at 44 U.S.C. § 3301(a)(1).

II. Requested Records

A. All records of or regarding communications to or from the CrimDiv, the FBI, the OAG, the ODAG, the OLA, and/or the OPA, containing the word “Trump” and any one or more of the following words: “investigation”, “organization”, “campaign”, “collusion”, “Russia”, “insurrection”, “agent”, “McCabe”, “Andy”, “Bruce”, “Fusion”, “Sally”, “Yates”, “Alpha”, “Comey”, “Clinton”, or @fbi.gov. The above-specified terms are not case-sensitive. The time frame for this Item is June 1, 2016, to January 20, 2017; November 3, 2020, to January 20, 2021; and September 10, 2021, to the date this Item is processed.

B. All communications between the CrimDiv, the FBI, the OAG, or the ODAG, and Perkins Coie. The time frame for this Item is June 1, 2016, to January 20, 2017; November 3, 2020, to January 20, 2021; and September 1, 2021, to October 15, 2021.

C. All records of or regarding communications to or from the CrimDiv, the FBI, the OAG, the ODAG, the OLA, and/or the OPA, regarding the indictment labeled Document 1 in *United States v. Michael A. Sussman*, Case 1:21-cr-00582-CRC (D.D.C. filed 09/16/21). The time frame for this Item is September 8, 2021, to the present.

D. All records of or regarding communications to or from the CrimDiv, the FBI, the OAG, the ODAG, the OLA, and/or the OPA, and Igor Y. Danchenko. The time frame for this Item is April 1, 2016, to the present.

E. All communications to or from the CrimDiv, the FBI, the OAG, the ODAG, the OLA, and/or the OPA, regarding the indictment labeled Document 1 in *United States of America v. Igor Y. Danchenko*, Case 1:21-cr-00245-AJT (ED Va. filed 11/03/21).

III. Processing

FOIA requires the Department to disclose records freely and promptly. The department must liberally construe AFL's requests and make a good faith effort to search for requested records using methods "which can be reasonably expected to produce the information requested." 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.¹ As a general matter:

- 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 the Department must disclose the entire record, as a single record cannot be split into responsive and non-responsive bits. Our request includes any attachments to those records or other materials enclosed with a record when transmitted. If an email is responsive to our request, then our request includes all prior messages sent or received in that email chain, as well as any attachments.
- Please search all locations and systems likely to have responsive records, regardless of format, medium, or physical characteristics. In conducting your search, please construe both our Items and the term "record" broadly and give full effect to all applicable authorities.
- 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 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.

¹ 5 U.S.C. §§ 552(a)(3)(A), 552(a)(6)(A); *Bostock v. Clayton Cty., Georgia*, 140 S. Ct. 1731, 1738 (2020); *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); *Oglesby v. United States Dep't of the Army*, 920 F.2d 57, 68 (D.C. Cir. 1990).

- 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 take steps to prevent that deletion, including, as appropriate, by instituting a litigation hold.

IV. Fee Waiver

Per 5 U.S.C. § 552(a)(4)(A)(iii) and 28 C.F.R. § 16.10, AFL requests a waiver of all search and duplication fees.

Fees should be waived “if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.” AFL’s request concerns identifiable operations or activities of the government, and the information requested is likely to contribute significantly to the public understanding such activities.

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. 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.

Our core mission includes informing and educating the public regarding the operations and activities of the federal government. To that end, we file Freedom of Information Act (FOIA) requests on issues of pressing public concern, then disseminate

the information we obtain, making documents broadly available to the public, scholars, and the media. Using our editorial skills to turn raw materials into distinct work, we distribute that work to a national audience through traditional and social media platforms. AFL's email list contains over 25,000 unique addresses, our Twitter page has nearly 10,000 followers, the Twitter page of our Founder and President has over 83,800 followers, and we have another 18,000 followers on GETTR.

As a nonprofit organization primarily engaged in the dissemination of information to educate the public, AFL does not have a commercial purpose and the release of the information requested is not primarily in AFL's financial interest. Our status as a qualified non-commercial public education and news media requester previously has been acknowledged and recognized by this department and by the Departments of Defense, Education, Energy, Interior, Health and Human Services, and Homeland Security, and the Office of the Director of National Intelligence.

V. Production

AFL welcomes production on an agreed rolling basis to speed production and reduce agency burden. If possible, please provide responsive records in an electronic format by email, native format by mail, or in PDF format on a USB drive. Please send any responsive records being transmitted by mail to America First Legal Foundation, 600 14th Street NW, 5th Floor, Washington, D.C. 20005.

VI. Conclusion

If you have any questions about 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. 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 yours,

/s/ Reed D. Rubinstein

Reed D. Rubinstein

America First Legal Foundation