



December 22, 2022

Via Electronic Mail

Camden Kelliher, Associate Counsel
U.S. Election Assistance Commission
633 3rd Street NW, Suite 200
Washington, DC 20001
ckelliher@eac.gov

Freedom of Information Act Request: Hunter Biden Laptop/IC Corruption

Dear Attorney Kelliher:

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 distribute that work to a national audience through traditional and social media platforms. AFL's email list contains over 38,000 unique addresses, our Twitter page has approximately 47,300 followers, the Twitter page of our Founder and President has nearly 362,000 followers, our Facebook page has 102,000 followers, and we have another approximately 31,500 followers on GETTR.

I. Background

A. Legal framework

50 U.S.C. Subchapter III is titled "Accountability for Intelligence Activities." 50 U.S.C. § 3092 requires the U.S. intelligence community, including the FBI, to keep relevant congressional intelligence committees fully and currently informed of all intelligence or counterintelligence activities "engaged in by, or are carried out for or on behalf of, any department, agency, or entity of the United States Government." 50 U.S.C. § 3093(f) expressly prohibits the U.S. intelligence community, including the FBI, from engaging in covert action "intended to influence United States political processes, public opinion, policies, or media."

It appears that the FBI violated 50 U.S.C. § 3902 by failing to notify Congress of the Bureau’s domestic intelligence operation to influence U.S. political process, public opinion, policies, or media by discrediting and/or suppressing the evidence of corruption contained on Hunter Biden’s laptop as “Russian disinformation.” Although there is some ambiguity in the statutory text,¹ it also appears that the Hunter Biden operation, like the 2016 Russia collusion hoax before it,² violated 50 U.S.C. § 3903(f)’s prohibition on “covert action” aimed at affecting American elections.

B. The partisan origins of the claim that Hunter Biden’s laptop was “Russian disinformation”

On December 9, 2019, the FBI issued a subpoena for and took possession of Hunter Biden’s laptop.³ The hard drive contained emails, documents, and other evidence that then-former Vice President Joe Biden and his family had, for years, been running a political influence-peddling operation. Money flowed to the Biden family from, *inter alia*, the People’s Republic of China, Russia, and Ukraine.⁴ The evidence is that the FBI was engaged in a criminal investigation of Hunter Biden for money laundering at that time.⁵

On February 5, 2020, the Washington Post reported that Sen. Chuck Grassley and Sen. Ron Johnson were reviewing potential conflicts of interest posed by the business activities of Hunter Biden and his associates during the Obama administration,

¹ “Covert action” means an “activity or activities of the United States Government to influence political, economic, or military conditions abroad, where it is intended that the role of the United States Government will not be apparent or acknowledged publicly.” 50 U.S.C. § 3093(e)(1). Section 3093(f) provides: “No covert action may be conducted which is intended to influence United States political processes, public opinion, policies, or media.” Read narrowly, § 3903 thus seems to prohibit only “covert actions” overseas that are intended to influence U.S. elections, public opinion, policies, or media. However, it is a “fundamental canon of statutory construction that the words of a statute must be read in their context and with a view to their place in the overall statutory scheme” and hornbook law that statutes must be read symmetrically and coherently as a harmonious whole. *Food & Drug Admin. v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120, 133 (2000) (citations omitted). To contend that Congress would prohibit the FBI from engaging in a *foreign* covert action to affect U.S. elections but allow the FBI to engage in a *domestic* covert action for the same purpose is to upend Subchapter III’s statutory purpose and scheme.

² Even under a narrow reading, the FBI’s Russia collusion hoax violated 50 U.S.C. § 3093(f). See e.g., *United States v. Michael A. Sussmann*, ECF No. 1, No.1:21-cr-00582 (D.D.C. Sept. 16, 2021); *United States v. Igor Y. Danchenko*, ECF No. 1, No. 1:21-CR-245 (E.D. Va. Nov. 3, 2021); J. Peter Zane, *Why the Russiagate Scandal Outranks the Rest*, Real Clear Politics (Dec. 8, 2021), <https://bit.ly/3FOHYLh>; Lee Smith, “Here Comes the Limited Hangout”, Tablet (Dec. 2, 2021), <https://bit.ly/3Purpsj>; Jonathon Turley, “A Means of Distracting the Public”: Brennan Briefed Obama on Clinton “Plan” to Tie Trump to Russia, Res Ipsa Loquitur (Oct. 7, 2020), <https://bit.ly/3FVGSi1>; Matt Taibbi, *It’s official: Russiagate is this generation’s WMD, The Iraq war faceplant damaged the reputation of the press. Russiagate just destroyed it*, TK News by Matt Taibbi (Mar. 23, 2019), <http://bit.ly/3FSMMAc>.

³ Michael Shellenberger, *Twitter Files: Part 7* no. 4 (Dec. 19, 2022), bit.ly/3W18anx.

⁴ *Id.* at no. 11.

⁵ Ian Schwartz, *James Rosen: FBI Has An Active Criminal Investigation Into Hunter Biden For Money Laundering*, RealClear Politics (Oct. 29, 2020), <https://bit.ly/3PI6baq>.

particularly with respect to the Biden family's business activities in Ukraine and China.⁶ As part of that investigation, Senate staff requested Obama administration records from the National Archives, including presidential records held by former President Obama. On March 13, 2020, an Obama representative responded by alleging that the purpose of the records request was to "give credence to a Russian disinformation campaign."⁷ Also in March 2020, the FBI and relevant members of the Intelligence Community briefed the Senate investigators and "provided assurances that there was no reason that our committees should not continue their investigation."⁸ The FBI did not inform the Senate investigators that it had possession of the Biden laptop.

On May 20, 2020, the Senate Homeland Security and Governmental Affairs Committee voted to subpoena a lobbying firm that worked with Burisma, a Ukrainian company that paid Hunter Biden to serve on its board. Opposing the subpoena, Democrats said that the Senate investigation into Biden and his son would aid Russia's disinformation campaign ahead of the November election.⁹

B. Building the foundation for partisan covert action to protect Joe Biden in the 2020 Presidential election

On or about June 15, 2020, former FBI general counsel James Baker, a central figure in the Russia collusion hoax, was named Twitter's Deputy General Counsel.¹⁰ According to the former Director of National Intelligence:

Jim Baker is the person who was involved in writing an exoneration memo for Hillary Clinton, having classified information on her server before the FBI ever interviewed her. He's the person who hand-carried information from Hillary Clinton's campaign lawyer, Michael Sussmann, into the FBI, false information about a relationship between the Trump campaign and the Russian Alfa Bank. It continued on with him trying to invoke the 25th Amendment to remove Donald Trump after Donald Trump fired Jim Comey. He was involved in the leak investigation involving Jim Comey that was the subject of the FBI inspector general [investigation].¹¹

⁶ Colby Itkowitz, *GOP senators request travel documents in Hunter Biden investigation*, The Washington Post (Feb. 2, 2020), <https://bit.ly/3YEVzlo>.

⁷ Emma Loop, *Obama Privately Blasted A Republican Investigation Into Joe Biden And Ukraine, Calling It An Effort To Boost "Russian Disinformation"*, BuzzFeed (May 5, 2020), <https://bit.ly/3hLDnRV>.

⁸ *Letter from Sen. Charles E. Grassley and Sen. Ron Johnson to Ms. Nikki Floris and Mr. Brandley Benavides* at p.2, n.7 (Aug. 25, 2022), <https://bit.ly/3GaIJj5>.

⁹ RFE/RL, *U.S. Senate Committee Issues Subpoena In Probe Of Hunter Biden's Ukraine Ties*, RadioFreeEurope/RadioLiberty (May 21, 2020), <https://bit.ly/3jlR76n>.

¹⁰ Thornton McEnery, Jaclyn Hendricks, and Emily Jacobs, *Twitter hires former FBI lawyer James Baker to join legal team*, New York Post (June 16, 2020), <https://bit.ly/3YRD2hk>.

¹¹ Jessica Chasmar, *Ratcliffe: No 'coincidence' Jim Baker got top Twitter job after pushing Russian collusion narrative*, Fox News (Dec. 12, 2022), <https://bit.ly/3jm8rrV>.

Baker was one of many former FBI employees working at Twitter, including Dawn Burton, the former deputy chief of staff to FBI head James Comey, who was responsible for initiating the Russia collusion hoax investigation to hamstring Donald Trump. Burton joined Twitter in 2019 as director of strategy.¹²

On July 13, 2020, then-Minority Leader Schumer, Sen. Mark Warner, Speaker Pelosi, and Rep. Adam Schiff sent a letter with a classified attachment to the FBI claiming that Congress was the subject of a Russian disinformation campaign. The classified attachment included unclassified elements that, among other things, attempted – and failed – to tie the Senate investigation into the Biden family’s financial deals to Russian disinformation. Those elements were then leaked to the press.¹³

On July 15, 2020, FBI Supervisory Special Agent Elvis M. Chan offered Twitter temporary security clearances “30 days out from the election.”

On July 16, 2020, then-Ranking Member Peters and then-Ranking Member Wyden requested a briefing from the FBI’s Foreign Influence Task Force on matters purportedly relating to the Biden investigation.

On July 23, 2020, Politico published an article alleging a “foreign disinformation plot to damage former vice president Joe Biden” based on “a farcical, long-debunked, hardcore right-wing conspiracy theory” of Biden family corruption. According to Politico, Democrat concerns were triggered by the prospect of “foreign interference in the 2020 race and fear of *another Kremlin-led effort to boost Trump’s reelection prospects.*” (Emphasis added.)¹⁴ This article regurgitated information leaked by the Democrats and as one part of a much broader leftist information effort to use the “Russian disinformation” mantra as a shield to prevent independent inquiries into the Bidens’ foreign entanglements.¹⁵

On August 6, 2020, FBI employees Nikki Floris and Bradley Benavides conducted the subject briefing. It consisted primarily of information known to Senate investigators and certain other information unconnected to the Biden investigation. The briefing did not include a disclosure that the FBI had Hunter Biden’s laptop in its possession despite having it for eight months. At the briefing as well as after, Grassley and Johnson requested relevant records relating to what happened at the briefing, including the 302 or similar summary, the intelligence basis for the briefing, and the

¹² Shellenberger, *supra* at 28-29.

¹³ *Letter from Sen. Charles E. Grassley and Sen. Ron Johnson, supra* n.6

¹⁴ Natasha Bertrand, *Democrats: Packets sent to Trump allies are part of foreign plot to damage Biden*, Politico (July 23, 2020), <https://bit.ly/3j0yfcJ>.

¹⁵ *See, e.g.,* Ryan Goodman and Asha Rangappa, *How Sen. Ron Johnson’s Investigation Became an Enabler of Russian Disinformation: Part I*, Just Security (Aug. 11, 2020), <https://bit.ly/3v9fdDZ>; Asha Rangappa and Ryan Goodman, *Manafort’s Reward: Sen. Ron Johnson and the Ukraine Conspiracy Investigation: Part II*, Just Security (Aug. 24, 2020), <https://bit.ly/3FOnjXl>.

personnel involved in making the decision to brief them. Until today, the FBI has failed to provide the relevant records.¹⁶

According to FBI whistleblowers, FBI Supervisory Intelligence Analyst Brian Auten opened an assessment that was used by an FBI Headquarters (“FBI HQ”) team to improperly discredit negative Hunter Biden information as disinformation. This caused investigative activity to cease at approximately the same time as the August 6 briefing. Based on allegations, verified and verifiable derogatory information on Hunter Biden was falsely labeled by FBI managers as disinformation.¹⁷

On August 7, 2020, Senator Richard Blumenthal published an opinion article in the Washington Post alleging that:

[T]he Homeland Security and Governmental Affairs Committee, is moving ahead with an investigation into presumptive Democratic presidential nominee Joe Biden’s family using documents provided to the senator by the son of a former KGB officer. Johnson’s actions are of such concern to the CIA, according to news reports, that the agency has refused to brief him. Think of it: Congress may become a forum for debunked conspiracy theories peddled by Kremlin proxies. *There is no excuse for perpetuating Russian disinformation in the U.S. Senate...*

(Emphasis added.)¹⁸ Blumenthal, however, lied.

C. Planning the partisan covert action to protect Joe Biden

At all times relevant, the FBI had possession of Hunter Biden’s laptop and knew, or should have known, that it and the information it contained were original and genuine, and not the product of foreign malign action. Nevertheless, it had been feeding social media companies, including Twitter, and others curated information regarding alleged threats to election integrity by “state actors,” reinforcing these corporations’ preexisting ideological antipathy to and bias against then President Trump and his administration. According to a December 2020 declaration by Twitter’s “Head of Site Integrity”:

[F]ederal law enforcement agencies communicated that they expected “hack-and-leak operations” by state actors might occur in the period shortly before the 2020 presidential election, likely in October. I was told in these meetings that the intelligence community expected that individuals associated with

¹⁶ Letter from Sen. Charles E. Grassley and Sen. Ron Johnson, *supra* n.6 at 3.

¹⁷ Letter from Sen. Charles E. Grassley to the Hon. Merrick Garland and the Hon. Christopher Wray at 1 (July 25, 2022), <https://bit.ly/3SsmMA6>.

¹⁸ Sen. Richard Blumenthal, *The threat to U.S. elections is real, and frightening. The public has a right to know*, The Washington Post (Aug. 7, 2020), <https://bit.ly/3BCYcdy>.

political campaigns would be subject to hacking attacks and that material obtained through those hacking attacks would likely be disseminated over social media platforms, including Twitter. These expectations of hack-and-lead operations were discussed throughout 2020. I also learned in these meetings that there were rumors that a hack-and-lead operation would involve Hunter Biden.¹⁹

These warnings, however, were not based on any new intelligence information.²⁰

On August 11, 2020, FBI agent Chan shared information with Twitter regarding a Russian hacking organization called “APT28” through the FBI’s secure, one-way communications channel.²¹ By mid-September 2020, the FBI and Twitter were operating an encrypted messaging network for employee communications.²² On September 15, 2020, Laura Dehmlow from the FBI’s Foreign Influence Task Force and Agent Chan requested permission to provide former FBI General Counsel Baker a classified briefing.²³

On or about September 20, 2020, the “Aspen Digital Hack-and-Dump Working Group” ran a “table-top exercise” titled “The Burisma Leak” for social media platforms and top national security reporters for the New York Times, and the Washington Post. The purpose of the exercise was to game a response to the release of documents demonstrating Biden family corruption, ostensibly by ATP28.²⁴ A part of the Aspen Institute, a leftist foundation led by Democrat party donors and operatives, Aspen Digital’s mission is to “empower[] policy-makers, civic organizations, companies, and the public to be responsible stewards of technology and media in the service of an informed, just, and equitable world” and stopping “Information Disorder.”²⁵

On September 23, 2020, Sen. Charles Grassley and Sen. Ron Johnson issued the Biden report. It was solely based on interviews with former U.S. government officials, Obama administration federal government records, and records from Blue Star Strategies, a Democrat lobbying firm. The report documented that the Biden family was “involved in a vast financial network that connected them to foreign nationals and foreign governments across the globe” and that they were trading on Joe Biden’s

¹⁹ See Declaration of Yoel Roth ¶11, FEC MUR7827 (Dec. 17, 2020), <https://bit.ly/3PGUDUZ>.

²⁰ See Shellenberger, *supra* n.1 at 14-21.

²¹ *Id.* at 23.

²² *Id.* at 32.

²³ *Id.* at 33.

²⁴ *Id.* at 31; Ace of Spades HQ, *The FBI Paid Twitter Three and a Half Million Dollars to “Help” It Censor “Misinformation”* (Dec. 20, 2022) (reproducing full Aspen Digital exercise agenda), <https://bit.ly/3YDxRkN>.

²⁵ Aspen Digital, *Home and Events landing pages* (last accessed Dec. 22, 2022), <https://bit.ly/3HVEbhS>.

government position for their own profit and gain.²⁶ The report further documented that Democrat committee members “misconstrued the facts of this investigation and...smeared it as *a Russian disinformation campaign*.” (Emphasis added.) To that end, the Democrats, especially Senators Peters, Wyden, and Blumenthal, lied about sources, manipulated classified information, and leaked confidential information to Politico and other politically aligned information organs.²⁷

On or before October 13, 2020, the FBI warned Facebook to be on “high alert” relating to a “Russian propaganda dump,” an apparent reference to the Biden laptop, which had been in the FBI’s possession for almost one year.²⁸ Whistleblowers allege that the FBI had done nothing with it then. “After the FBI obtained the Hunter Biden laptop from the Wilmington, DE computer shop, these whistleblowers stated that local FBI leadership told employees, ‘you will not look at that Hunter Biden laptop.’” The whistleblowers further allege that the FBI did not begin to examine the laptop’s contents until after the 2020 presidential election.²⁹

D. Executing the covert action to protect Joe Biden

On October 14, 2020, the New York Post reported strong evidence, in the form of emails from the laptop hard drive, of quid-pro-quo political corruption and influence peddling by then-candidate and former Vice-President Joe Biden. The emails demonstrated that in or about April 2014, Hunter Biden, a person without any energy industry background or expertise whatsoever, was given a board seat by a Ukrainian gas company called Burisma. Burisma made \$83,333 payments monthly to Hunter Biden’s company.³⁰ In turn, Hunter Biden introduced then-Vice President Biden to a top Burisma executive. Shortly thereafter, Joe Biden pressured Ukrainian government officials into firing a prosecutor investigating Burisma by threatening to cancel a \$1 billion U.S. loan guarantee.³¹ Rudy Giuliani, former New York City Mayor

²⁶ U.S. Senate Committee on Homeland Security and Governmental Affairs and Committee on Finance, Majority Staff Report, *Hunter Biden, Burisma, and Corruption: The Impact on U.S. Government Policy and Related Concerns* at pp. 4-6, 31-33, 69, 71-79, 83-85 (Sep. 2020) (“Senate Report”), <https://bit.ly/3hxBGYg>.

²⁷ See generally *id.* at 55-64.

²⁸ Joseph A. Wulfsohn, *Mark Zuckerberg tells Joe Rogan FBI warned Facebook of ‘Russian propaganda’ before Hunter Biden laptop story*, Fox News (Aug. 25, 2022), <https://bit.ly/3FWxZ7S>.

²⁹ Brianna Herlihy, *FBI met weekly with Big Tech ahead of the 2020 election, agent testifies*, Fox News (Dec. 3, 2022), <https://fxn.ws/3j6Hatr>; *Letter from Sen. Ron Johnson to the Hon. Michael E. Horowitz* at 2 (Aug. 23, 2022) (cleaned up), <https://bit.ly/3WfIhFk>.

³⁰ Hunter Biden reportedly received \$1.5 million in total. Also, Burisma appears to have paid an additional \$1.5 million to a Hunter Biden business associate, Devon Archer. See Mattathias Schwartz, *The National Archives Wants to Release Hundreds of Pages of Emails about Hunter Biden and Burisma — and the White House Won’t Say Whether It Will Let It Happen*, Insider (Dec. 14, 2022), bit.ly/3PJ5620.

³¹ Emma-Jo Morris and Gabrielle Fonrouge, *Smoking-gun email reveals how Hunter Biden introduced Ukrainian businessman to VP dad*, The New York Post (Oct. 14, 2020), <https://bit.ly/3HUUUpE>.

and U.S. Attorney for the Southern District of New York, supplied the laptop to the newspaper.

Baker, his FBI allies, and Democrat operatives responded immediately. Baker insisted on an internal email that the Hunter Biden laptop evidence was faked and/or hacked,³² and reached out to Mathew Perry in the FBI's Office of General Counsel to coordinate a response.³³ Meanwhile, Democrat-aligned media organs immediately began an effort to discredit the evidence as Russian disinformation, apparently relying on FBI leaks and sources.

On October 15, 2020, the Hill linked Hunter Biden's laptop to an alleged Russian influence campaign to pass misinformation to President Trump. Citing an anonymous source, the Hill reported, "Several senior administration officials, including Attorney General William Barr, FBI Director Christopher Wray and White House counsel Pat Cipollone 'all had common understanding' that Russia was targeting the president's personal lawyer."³⁴ Also on October 15, 2020, NBC reported that "Federal investigators are examining whether emails allegedly describing activities by Joe Biden and his son Hunter and found on a laptop at a Delaware repair shop are linked to a foreign intelligence operation" based on claims made by "two people familiar with the matter"; and that the evidence of Biden corruption was "greeted with widespread skepticism."³⁵

On October 16, 2020, CNN reported, under six bylines, that "US authorities are investigating whether the published emails that purport to detail the business dealings of Joe Biden's son in Ukraine and China are connected to an ongoing Russian disinformation effort targeting the former vice president's campaign, a US official and a congressional source briefed on the matter said." CNN declared that "Giuliani has openly coordinated with a known Russian agent to promote disinformation about the Bidens" and that "The FBI is leading the investigation."³⁶

Also, on October 16, 2020, House Intelligence Committee Chairman Adam Schiff claimed that Hunter Biden's laptop was a Russian disinformation campaign. "We know that this whole smear on Joe Biden comes from the Kremlin," Schiff said, "That's been clear for well over a year now that they've been pushing this false

³² Shellenberger, *supra n.1* at 34-38.

³³ *Id.* at 39.

³⁴ Justine Coleman, *Intelligence officials warned Trump that Giuliani was target of Russian influence campaign: report*, The Hill (Oct. 15, 2020), <https://bit.ly/3WzHaQV>.

³⁵ Ken Dilanian, *Feds examining whether alleged Hunter Biden emails are linked to a foreign intel operation. One email, which has not been confirmed to be authentic, suggested a meeting between Joe Biden and a rep from a Ukraine firm that once paid his son Hunter*, NBC News (Oct. 15, 2020), <https://bit.ly/3BOh5FZ>.

³⁶ Marshall Cohen, Zachary Cohen, Michael Warren, Evan Perez, Alex Marquardt, and Mark Morales, *US authorities investigating if recently published emails are tied to Russian disinformation effort targeting Biden*, CNN (Oct. 16, 2020), <https://bit.ly/3PGVVPT>.

narrative about this vice president and his son. Clearly, the origins of this whole smear are from the Kremlin, and the president is only too happy to have Kremlin help and try to amplify it.”³⁷ At all times relevant, Schiff knew there was no competent evidence to support his claim that Hunter Biden’s laptop, and the evidence of Biden corruption contained on it, were “Russian disinformation.” Notably, Schiff was a key player in the campaign to amplify allegations of Russian collusion by former President Trump. At all times relevant, Schiff knew both that the Russia collusion allegations were false, and that these allegations had been fabricated by the Hillary Clinton campaign and operationalized by its allied intelligence community operatives.

Also on October 16, 2020, a Twitter executive noted “well-timed briefings from Gov’t sources...which would support an assessment that [the laptop is] neither whistleblower or dissident content.”³⁸ These briefings most likely included FBI officials.

On October 19, 2020, The Hill reported that the Director of National Intelligence John Ratcliff said that there was no evidence to support the claim that Hunter Biden’s laptop and e-mails on it were part of a Russian disinformation campaign. According to the DNI, “The intelligence community doesn’t believe that because there is no intelligence that supports that. And we shared no intelligence with Chairman Schiff or any other member of Congress that Hunter Biden’s laptop is part of some Russian disinformation campaign.”³⁹

Also on October 19, 2020, Politico released a letter from 51 former intelligence officials, including political partisans John Brennan, Jim Clapper, and Michael Hayden, alleging that “the arrival on the US political scene of emails purportedly belonging to Vice President Biden’s son Hunter, much of it related to his time serving on the Board of the Ukrainian gas company Burisma, has all the classic earmarks of a Russian information operation.” The 51 former intelligence officials further alleged that “For the Russians at this point, with Trump down in the polls, there is incentive for Moscow to pull out the stops to do anything possible to help Trump win and/or to weaken Biden should he win. A ‘laptop op’ fits the bill, as the publication of the emails are clearly designed to discredit Biden.” The officials concluded that “Our view that the Russians are involved in the Hunter Biden email issue” was shared by “*Executive Branch departments and agencies [and] It is high time that Russia stops interfering in our democracy.*” (Emphasis in original.)⁴⁰

³⁷ Adam Shaw, *Adam Schiff claims Hunter Biden email stories come ‘from the Kremlin’*, Fox News (Oct. 17, 2020), <https://bit.ly/3V5Lczg>.

³⁸ *Id.* at 40.

³⁹ Olivia Beavers and Joe Concha, *Ratcliffe, Schiff battle over Biden emails, politicized intelligence*, The Hill (Oct. 19, 2020), <https://bit.ly/3W3OPY1>.

⁴⁰ Clapper, Brennan, et al, *Public Statement on the Hunter Biden Emails* (Oct. 19, 2020), <https://bit.ly/3FPVfnV>.

This letter had a significant impact on the 2020 election. It was repeatedly cited by Democrat operatives to discredit the evidence of Biden’s political corruption. Also, it was used by Democrat-aligned media organs to suppress the evidence from Hunter Biden’s laptop on the grounds that it was hacked or faked Russian disinformation.

E. The covert operation to protect Joe Biden achieved its objective

On March 16, 2022, the New York Times quietly admitted that the Hunter Biden laptop was genuine and that its contents were authentic.⁴¹ This admission came more than two years and three months after the FBI took possession of Hunter Biden’s laptop. Regardless, the evidence is clear that the FBI’s partisan covert action to protect Joe Biden, in collusion with Democrat politicians and operatives, and their allied social and other media organs,⁴² achieved its objective. Nearly four out of five Americans, or 79 percent, believe that had there been “truthful” coverage of the Hunter Biden laptop, it would have changed the outcome of the 2020 presidential election.⁴³

II. Records Requested

- A. All records of, mentioning, or regarding the “Public Statement on the Hunter Biden Emails” dated October 19, 2020, that is available at <https://www.politico.com/f/?id=00000175-4393-d7aa-af77-579f9b330000> and attached as Exhibit A.
- B. All records of, mentioning, or regarding Hunter Biden.
- C. All records relating to or regarding the processing of the above items.

III. Custodians

- A. Thomas Hicks
- B. Christy McCormick
- C. Ben Hovland
- D. Donald Palmer
- E. All career employees, detailees, and/or political officials with a grade equivalent of GS-13 step 1 or above.

⁴¹ Katie Benner, Kenneth P. Vogel and Michael S. Schmidt, *Hunter Biden Paid Tax Bill, but Broad Federal Investigation Continues*, The New York Times (Mar. 16, 2022), <https://bit.ly/3PuwUHF>.

⁴² Nick Nolte, *14 Media Outlets that Lied About Hunter Biden’s Laptop Scandal Being Russian Disinformation*, Breitbart (Dec. 10, 2022), <https://bit.ly/3WE0MUc>.

⁴³ Bruce Golding, *79% say ‘truthful’ coverage of Hunter Biden’s Laptop would have changed 2020 election*, The New York Post (Aug. 26, 2022), <https://bit.ly/3Vm6SaC>; see also Jerry Dunleavy, *Barr says Hunter Biden Russian disinformation claims ‘probably affected’ election outcome*, The Washington Examiner (Mar. 22, 2022), <https://bit.ly/3jqg00l>.

IV. Fee Waiver Request

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

V. Processing and Production

Processing should occur in strict compliance with the processing guidance in the Attorney General's Memorandum on Freedom of Information Act Guidelines. If you have any questions about our request or believe further discussions regarding search and processing would facilitate a more efficient production of records of interest to AFL, then please contact me at FOIA@aflegal.org. If AFL's request for a fee waiver is not granted in full, please contact us immediately upon making that determination.

To accelerate your 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 to America First Legal Foundation, 611 Pennsylvania Ave SE #231, Washington, DC 20003.

Thank you in advance for your cooperation.

Sincerely,

/s/ Reed D. Rubinstein
America First Legal Foundation

EXHIBIT A

Public Statement on the Hunter Biden Emails

October 19, 2020

We are all individuals who devoted significant portions of our lives to national security. Some of us served in senior positions in policy departments and agencies, and some of us served in senior positions in the Intelligence Community. Some of us were political appointees, and some were career officials. Many of us worked for presidents of both political parties.

We are all also individuals who see Russia as one of our nation's primary adversaries. All of us have an understanding of the wide range of Russian overt and covert activities that undermine US national security, with some of us knowing Russian behavior intimately, as we worked to defend our nation against it for a career. A few of us worked against Russian information operations in the United States in the last several years.

Perhaps most important, each of us believes deeply that American citizens should determine the outcome of elections, not foreign governments. All of us agree with the founding fathers' concern about the damage that foreign interference in our politics can do to our democracy.

It is for all these reasons that we write to say that the arrival on the US political scene of emails purportedly belonging to Vice President Biden's son Hunter, much of it related to his time serving on the Board of the Ukrainian gas company Burisma, has all the classic earmarks of a Russian information operation.

We want to emphasize that we do not know if the emails, provided to the New York Post by President Trump's personal attorney Rudy Giuliani, are genuine or not and that we do not have evidence of Russian involvement -- just that our experience makes us deeply suspicious that the Russian government played a significant role in this case.

If we are right, this is Russia trying to influence how Americans vote in this election, and we believe strongly that Americans need to be aware of this.

There are a number of factors that make us suspicious of Russian involvement.

Such an operation would be consistent with Russian objectives, as outlined publicly and recently by the Intelligence Community, to create political chaos in the United States and to deepen political divisions here but also to undermine the candidacy of former Vice President Biden and thereby help the candidacy of President Trump. For the Russians at this point, with Trump down in the polls, there is incentive for Moscow to pull out the stops to do anything possible to help Trump win and/or to weaken Biden should he win. A "laptop op" fits the bill, as the publication of the emails are clearly designed to discredit Biden.

Such an operation would be consistent with some of the key methods Russia has used in its now multi-year operation to interfere in our democracy – the hacking (via cyber operations) and the dumping of accurate information or the distribution of inaccurate or misinformation. Russia did both of these during the 2016 presidential election – judgments shared by the US Intelligence Community, the investigation into Russian activities by Special Counsel Robert Mueller, and the entirety (all Republicans and Democrats) on the current Senate Intelligence Committee.

Such an operation is also consistent with several data points. The Russians, according to media reports and cybersecurity experts, targeted Burisma late last year for cyber collection and gained access to its emails. And Ukrainian politician and businessman Adriy Derkach, identified and sanctioned by the US Treasury Department for being a 10-year Russian agent interfering in the 2020 election, passed purported materials on Burisma and Hunter Biden to Giuliani.

Our view that the Russians are involved in the Hunter Biden email issue is consistent with two other significant data points as well. According to the Washington Post, citing four sources, “U.S. intelligence agencies warned the White House last year that Giuliani was the target of an influence operation by Russian intelligence.”

In addition, media reports say that the FBI has now opened an investigation into Russian involvement in this case. According to USA Today, “...federal authorities are investigating whether the material supplied to the New York Post by Rudy Giuliani...is part of a smoke bomb of disinformation pushed by Russia.”

We do not know whether these press reports are accurate, but they do suggest concern within Executive Branch departments and agencies that mirrors ours. It is high time that Russia stops interfering in our democracy.

Signed by,

Jim Clapper
Former Director of National Intelligence
Former Under Secretary of Defense for Intelligence
Former Director of the National Geospatial Intelligence Agency
Former Director of the Defense Intelligence Agency

Mike Hayden
Former Director, Central Intelligence Agency
Former Director, National Security Agency
Former Principal Deputy Director of National Intelligence

Leon Panetta

Former Director, Central Intelligence Agency
Former Secretary of Defense

John Brennan
Former Director, Central Intelligence Agency
Former White House Homeland Security and Counterterrorism Advisor
Former Director, Terrorism Threat Integration Center
Former Analyst and Operations Officer, Central Intelligence Agency

Thomas Finger
Former Deputy Director of National Intelligence for Analysis
Former Assistant Secretary for Intelligence and Research, Department of State
Former Chair, National Intelligence Council

Rick Ledgett
Former Deputy Director, National Security Agency

John McLaughlin
Former Acting Director, Central Intelligence Agency
Former Deputy Director, Central Intelligence Agency
Former Director of Analysis, Central Intelligence Agency
Former Director, Slavic and Eurasian Analysis, Central Intelligence Agency

Michael Morell
Former Acting Director, Central Intelligence Agency
Former Deputy Director, Central Intelligence Agency
Former Director of Analysis, Central Intelligence Agency

Mike Vickers
Former Under Secretary of Defense for Intelligence
Former Operations Officer, Central Intelligence Agency

Doug Wise
Former Deputy Director, Defense Intelligence Agency
Former Senior CIA Operations Officer

Nick Rasmussen
Former Director, National Counterterrorism Center

Russ Travers
Former Acting Director, National Counterterrorism Center
Former Deputy Director, National Counterterrorism Center
Former Analyst of the Soviet Union and Russia, Defense Intelligence Agency

Andy Liepman

Former Deputy Director, National Counterterrorism Center
Former Senior Intelligence Officer, Central Intelligence Agency

John Moseman

Former Chief of Staff, Central Intelligence Agency
Former Director of Congressional Affairs, Central Intelligence Agency
Former Minority Staff Director, Senate Select Committee on Intelligence

Larry Pfeiffer

Former Chief of Staff, Central Intelligence Agency
Former Director, White House Situation Room

Jeremy Bash

Former Chief of Staff, Central Intelligence Agency
Former Chief of Staff, Department of Defense
Former Chief Counsel, House Permanent Select Committee on Intelligence

Rodney Snyder

Former Chief of Staff, Central Intelligence Agency
Former Director of Intelligence Programs, National Security Council
Chief of Station, Central Intelligence Agency

Glenn Gerstell

Former General Counsel, National Security Agency

David B. Buckley

Former Inspector General, Central Intelligence Agency
Former Democratic Staff Director, House Permanent Select Committee on Intelligence
Former Counterespionage Case Officer, United States Air Force

Nada Bakos

Former Analyst and Targeting Officer, Central Intelligence Agency

Patty Brandmaier

Former Senior Intelligence Officer, Central Intelligence Agency
Former Deputy Associate Director for Military Affairs, Central Intelligence Agency
Former Deputy Director of Congressional Affairs, Central Intelligence Agency

James B. Bruce

Former Senior Intelligence Officer, Central Intelligence Agency
Former Senior Intelligence Officer, National Intelligence Council

Considerable work related to Russia

David Cariens

Former Intelligence Analyst, Central Intelligence Agency
50+ Years Working in the Intelligence Community

Janice Cariens

Former Operational Support Officer, Central Intelligence Agency

Paul Kolbe

Former Senior Operations Officer, Central Intelligence Agency
Former Chief, Central Eurasia Division, Central Intelligence Agency

Peter Corsell

Former Analyst, Central Intelligence Agency

Brett Davis

Former Senior Intelligence Officer, Central Intelligence Agency
Former Deputy Director of the Special Activities Center for Expeditionary Operations, CIA

Roger Zane George

Former National Intelligence Officer

Steven L. Hall

Former Senior Intelligence Officer, Central Intelligence Agency
Former Chief of Russian Operations, Central Intelligence Agency

Kent Harrington

Former National Intelligence Officer for East Asia, Central Intelligence Agency
Former Director of Public Affairs, Central Intelligence Agency
Former Chief of Station, Central Intelligence Agency
Former Analyst, Central Intelligence Agency

Don Hepburn

Former Senior National Security Executive

Timothy D. Kilbourn

Former Dean, Sherman Kent School of Intelligence Analysis, Central Intelligence Agency
Former PDB Briefer to President George W. Bush, Central Intelligence Agency

Ron Marks

Former Officer, Central Intelligence Agency
Twice former staff of the Republican Majority Leader

Jonna Hiestand Mendez
Technical Operations Officer, Central Intelligence Agency

Emile Nakhleh
Former Director of the Political Islam Strategic Analysis Program, Central Intelligence Agency
Former Senior Intelligence Analyst, Central Intelligence Agency

Gerald A. O'Shea
Senior Operations Officer, Central Intelligence Agency
Served four tours as Chief of Station, Central Intelligence Agency

David Priess
Former Analyst and Manager, Central Intelligence Agency
Former PDB Briefer, Central Intelligence Agency

Pam Purcilly
Former Deputy Director of Analysis, Central Intelligence Agency
Former Director of the Office of Russian and European Analysis, Central Intelligence Agency
Former PDB Briefer to President George W. Bush, Central Intelligence Agency

Marc Polymeropoulos
Former Senior Operations Officer, Central Intelligence Agency
Former Acting Chief of Operations for Europe and Eurasia, Central Intelligence Agency

Chris Savos
Former Senior Intelligence Officer, Central Intelligence Officer

Nick Shapiro
Former Deputy Chief of Staff and Senior Advisor to the Director, Central Intelligence Agency

John Sipher
Former Senior Operations Officer, Central Intelligence Agency
Former Deputy Chief of Russian Operations, Central Intelligence Agency

Stephen Slick
Former Senior Director for Intelligence Programs, National Security Council
Former Senior Operations Office, Central Intelligence Agency

Cynthia Strand
Former Deputy Assistant Director for Global Issues, Central Intelligence Agency

Greg Tarbell

Former Deputy Executive Director, Central Intelligence Agency

Former Analyst of the Soviet Union and Russia, Central Intelligence Agency

David Terry

Former Chairman of the National Intelligence Collection Board

Former Chief of the PDB, Central Intelligence Agency

Former PDB Briefer to Vice President Dick Cheney, Central Intelligence Agency

Greg Treverton

Former Chair, National Intelligence Council

John Tullius

Former Senior Intelligence Officer, Central Intelligence Agency

David A. Vanell

Former Senior Operations Officer, Central Intelligence Agency

Winston Wiley

Former Director of Analysis, Central Intelligence Agency

Former Chief, Counterterrorism Center, Central Intelligence Agency

Kristin Wood

Former Senior Intelligence Officer, Central Intelligence Agency

Former PDB Briefer, Central Intelligence Agency

In addition, nine additional former IC officers who cannot be named publicly also support the arguments in this letter.



December 22, 2022

Via Electronic Mail

Gregory Koch, Director, Information Management Office
ATTN: FOIA/PA
Office of the Director of National Intelligence
Washington, D.C. 20511
dni-foia@dni.gov

Freedom of Information Act Request: Hunter Biden Laptop/IC Corruption

Dear FOIA Officer:

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 distribute that work to a national audience through traditional and social media platforms. AFL's email list contains over 38,000 unique addresses, our Twitter page has approximately 47,300 followers, the Twitter page of our Founder and President has nearly 362,000 followers, our Facebook page has 102,000 followers, and we have another approximately 31,500 followers on GETTR.

I. Background

A. Legal framework

50 U.S.C. Subchapter III is titled "Accountability for Intelligence Activities." 50 U.S.C. § 3092 requires the U.S. intelligence community, including the FBI, to keep relevant congressional intelligence committees fully and currently informed of all intelligence or counterintelligence activities "engaged in by, or are carried out for or on behalf of, any department, agency, or entity of the United States Government." 50 U.S.C. § 3093(f) expressly prohibits the U.S. intelligence community, including the FBI, from engaging in covert action "intended to influence United States political processes, public opinion, policies, or media."

It appears that the FBI violated 50 U.S.C. § 3902 by failing to notify Congress of the Bureau’s domestic intelligence operation to influence U.S. political process, public opinion, policies, or media by discrediting and/or suppressing the evidence of corruption contained on Hunter Biden’s laptop as “Russian disinformation.” Although there is some ambiguity in the statutory text,¹ it also appears that the Hunter Biden operation, like the 2016 Russia collusion hoax before it,² violated 50 U.S.C. § 3903(f)’s prohibition on “covert action” aimed at affecting American elections.

B. The partisan origins of the claim that Hunter Biden’s laptop was “Russian disinformation”

On December 9, 2019, the FBI issued a subpoena for and took possession of Hunter Biden’s laptop.³ The hard drive contained emails, documents, and other evidence that then-former Vice President Joe Biden and his family had, for years, been running a political influence-peddling operation. Money flowed to the Biden family from, *inter alia*, the People’s Republic of China, Russia, and Ukraine.⁴ The evidence is that the FBI was engaged in a criminal investigation of Hunter Biden for money laundering at that time.⁵

On February 5, 2020, the Washington Post reported that Sen. Chuck Grassley and Sen. Ron Johnson were reviewing potential conflicts of interest posed by the business activities of Hunter Biden and his associates during the Obama administration,

¹ “Covert action” means an “activity or activities of the United States Government to influence political, economic, or military conditions abroad, where it is intended that the role of the United States Government will not be apparent or acknowledged publicly”. 50 U.S.C. § 3093(e)(1). Section 3093(f) provides: “No covert action may be conducted which is intended to influence United States political processes, public opinion, policies, or media.” Read narrowly, § 3903 thus seems to prohibit only “covert actions” overseas that are intended to influence U.S. elections, public opinion, policies, or media. However, it is a “fundamental canon of statutory construction that the words of a statute must be read in their context and with a view to their place in the overall statutory scheme” and hornbook law that statutes must be read symmetrically and coherently as a harmonious whole. *Food & Drug Admin. v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120, 133 (2000) (citations omitted). To contend that Congress would prohibit the FBI from engaging in a *foreign* covert action to affect U.S. elections but allow the FBI to engage in a *domestic* covert action for the same purpose is to upend Subchapter III’s statutory purpose and scheme.

² Even under a narrow reading, the FBI’s Russia collusion hoax violated 50 U.S.C. § 3093(f). *See e.g.*, *United States v. Michael A. Sussmann*, ECF No. 1, No.1:21-cr-00582 (D.D.C. Sept. 16, 2021); *United States v. Igor Y. Danchenko*, ECF No. 1, No. 1:21-CR-245 (E.D. Va. Nov. 3, 2021); J. Peter Zane, *Why the Russiagate Scandal Outranks the Rest*, Real Clear Politics (Dec. 8, 2021), <https://bit.ly/3FOHYLh>; Lee Smith, “Here Comes the Limited Hangout”, Tablet (Dec. 2, 2021), <https://bit.ly/3Purpsj>; Jonathon Turley, “A Means of Distracting the Public”: Brennan Briefed Obama on Clinton “Plan” to Tie Trump to Russia, Res Ipsa Loquitur (Oct. 7, 2020), <https://bit.ly/3FVGSi1>; Matt Taibbi, *It’s official: Russiagate is this generation’s WMD, The Iraq war faceplant damaged the reputation of the press. Russiagate just destroyed it*, TK News by Matt Taibbi (Mar. 23, 2019), <http://bit.ly/3FSMMAc>.

³ Michael Shellenberger, *Twitter Files: Part 7* no. 4 (Dec. 19, 2022), bit.ly/3W18anx.

⁴ *Id.* at no. 11.

⁵ Ian Schwartz, *James Rosen: FBI Has An Active Criminal Investigation Into Hunter Biden For Money Laundering*, RealClear Politics (Oct. 29, 2020), <https://bit.ly/3PI6baq>.

particularly with respect to the Biden family’s business activities in Ukraine and China.⁶ As part of that investigation, Senate staff requested Obama administration records from the National Archives, including presidential records held by former President Obama. On March 13, 2020, an Obama representative responded by alleging that the purpose of the record requests was to “give credence to a Russian disinformation campaign.”⁷ Also in March 2020, the FBI and relevant members of the Intelligence Community briefed the Senate investigators and “provided assurances that there was no reason that our committees should not continue their investigation.”⁸ The FBI did not inform the Senate investigators that it had possession of the Biden laptop.

On May 20, 2020, the Senate Homeland Security and Governmental Affairs Committee voted to subpoena a lobbying firm that worked with Burisma, a Ukrainian company that paid Hunter Biden to serve on its board. Opposing the subpoena, Democrats said that the Senate investigation into Biden and his son would aid Russia’s disinformation campaign ahead of the November election.⁹

B. Building the foundation for partisan covert action to protect Joe Biden in the 2020 Presidential election

On or about June 15, 2020, former FBI general counsel James Baker, a central figure in the Russia collusion hoax, was named Twitter’s Deputy General Counsel.¹⁰ According to the former Director of National Intelligence:

Jim Baker is the person who was involved in writing an exoneration memo for Hillary Clinton, having classified information on her server before the FBI ever interviewed her. He’s the person who hand-carried information from Hillary Clinton’s campaign lawyer, Michael Sussmann, into the FBI, false information about a relationship between the Trump campaign and the Russian Alfa Bank. It continued on with him trying to invoke the 25th Amendment to remove Donald Trump after Donald Trump fired Jim Comey. He was involved in the leak investigation involving Jim Comey that was the subject of the FBI inspector general [investigation].¹¹

⁶ Colby Itkowitz, *GOP senators request travel documents in Hunter Biden investigation*, The Washington Post (Feb. 2, 2020), <https://bit.ly/3YEvzlo>.

⁷ Emma Loop, *Obama Privately Blasted A Republican Investigation Into Joe Biden And Ukraine, Calling It An Effort To Boost “Russian Disinformation”*, BuzzFeed (May 5, 2020), <https://bit.ly/3hLDnRV>.

⁸ *Letter from Sen. Charles E. Grassley and Sen. Ron Johnson to Ms. Nikki Floris and Mr. Brandley Benavides* at p.2, n.7 (Aug. 25, 2022), <https://bit.ly/3GaIJj5>.

⁹ RFE/RL, *U.S. Senate Committee Issues Subpoena In Probe Of Hunter Biden’s Ukraine Ties*, RadioFreeEurope/RadioLiberty (May 21, 2020), <https://bit.ly/3jIR76n>.

¹⁰ Thornton McEnery, Jaclyn Hendricks, and Emily Jacobs, *Twitter hires former FBI lawyer James Baker to join legal team*, New York Post (June 16, 2020), <https://bit.ly/3YRD2hk>.

¹¹ Jessica Chasmar, *Ratcliffe: No ‘coincidence’ Jim Baker got top Twitter job after pushing Russian collusion narrative*, Fox News (Dec. 12, 2022), <https://bit.ly/3jm8rrV>.

Baker was one of many former FBI employees working at Twitter, including Dawn Burton, the former deputy chief of staff to FBI head James Comey, who was responsible for initiating the Russia collusion hoax investigation to hamstring Donald Trump. Burton joined Twitter in 2019 as director of strategy.¹²

On July 13, 2020, then-Minority Leader Schumer, Sen. Mark Warner, Speaker Pelosi, and Rep. Adam Schiff sent a letter with a classified attachment to the FBI claiming that Congress was the subject of a Russian disinformation campaign. The classified attachment included unclassified elements that, among other things, attempted – and failed – to tie the Senate investigation into the Biden family’s financial deals to Russian disinformation. Those elements were then leaked to the press.¹³

On July 15, 2020, FBI Supervisory Special Agent Elvis M. Chan offered Twitter temporary security clearances “30 days out from the election.”

On July 16, 2020, then-Ranking Member Peters and then-Ranking Member Wyden requested a briefing from the FBI’s Foreign Influence Task Force on matters purportedly relating to the Biden investigation.

On July 23, 2020, Politico published an article alleging a “foreign disinformation plot to damage former vice president Joe Biden” based on “a farcical, long-debunked, hardcore right-wing conspiracy theory” of Biden family corruption. According to Politico, Democrat concerns were triggered by the prospect of “foreign interference in the 2020 race and fear of *another Kremlin-led effort to boost Trump’s reelection prospects.*” (Emphasis added.)¹⁴ This article regurgitated information leaked by the Democrats and as one part of a much broader leftist information effort to use the “Russian disinformation” mantra as a shield to prevent independent inquiries into the Bidens’ foreign entanglements.¹⁵

On August 6, 2020, FBI employees Nikki Floris and Bradley Benavides conducted the subject briefing. It consisted primarily of information known to Senate investigators and certain other information unconnected to the Biden investigation. The briefing did not include a disclosure that the FBI had Hunter Biden’s laptop in its possession despite having it for eight months. At the briefing as well as after, Grassley and Johnson requested relevant records relating to what happened at the briefing, including the 302 or similar summary, the intelligence basis for the briefing and the

¹² Shellenberger, *supra* at 28-29.

¹³ *Letter from Sen. Charles E. Grassley and Sen. Ron Johnson, supra* n.6

¹⁴ Natasha Bertrand, *Democrats: Packets sent to Trump allies are part of foreign plot to damage Biden*, Politico (July 23, 2020), <https://bit.ly/3j0yfcJ>.

¹⁵ *See, e.g.*, Ryan Goodman and Asha Rangappa, *How Sen. Ron Johnson’s Investigation Became an Enabler of Russian Disinformation: Part I*, Just Security (Aug. 11, 2020), <https://bit.ly/3v9fdDZ>; Asha Rangappa and Ryan Goodman, *Manafort’s Reward: Sen. Ron Johnson and the Ukraine Conspiracy Investigation: Part II*, Just Security (Aug. 24, 2020), <https://bit.ly/3FOnjXl>.

personnel involved in making the decision to brief them. Until today, the FBI has failed to provide the relevant records.¹⁶

According to FBI whistleblowers, FBI Supervisory Intelligence Analyst Brian Auten opened an assessment that was used by an FBI Headquarters (“FBI HQ”) team to improperly discredit negative Hunter Biden information as disinformation. This caused investigative activity to cease at approximately the same time as the August 6 briefing. Based on allegations, verified and verifiable derogatory information on Hunter Biden was falsely labeled by FBI managers as disinformation.¹⁷

On August 7, 2020, Senator Richard Blumenthal published an opinion article in the Washington Post alleging that:

[T]he Homeland Security and Governmental Affairs Committee, is moving ahead with an investigation into presumptive Democratic presidential nominee Joe Biden’s family using documents provided to the senator by the son of a former KGB officer. Johnson’s actions are of such concern to the CIA, according to news reports, that the agency has refused to brief him. Think of it: Congress may become a forum for debunked conspiracy theories peddled by Kremlin proxies. *There is no excuse for perpetuating Russian disinformation in the U.S. Senate...*

(Emphasis added.)¹⁸ Blumenthal, however, lied.

C. Planning the partisan covert action to protect Joe Biden

At all times relevant, the FBI had possession of Hunter Biden’s laptop and knew, or should have known, that it and the information it contained were original and genuine, and not the product of foreign malign action. Nevertheless, it had been feeding social media companies, including Twitter, and others curated information regarding alleged threats to election integrity by “state actors,” reinforcing these corporations’ preexisting ideological antipathy to and bias against then President Trump and his administration. According to a December 2020 declaration by Twitter’s “Head of Site Integrity”:

[F]ederal law enforcement agencies communicated that they expected “hack-and-leak operations” by state actors might occur in the period shortly before the 2020 presidential election, likely in October. I was told in these meetings that the intelligence community expected that individuals associated with

¹⁶ Letter from Sen. Charles E. Grassley and Sen. Ron Johnson, *supra* n.6 at 3.

¹⁷ Letter from Sen. Charles E. Grassley to the Hon. Merrick Garland and the Hon. Christopher Wray at 1 (July 25, 2022), <https://bit.ly/3SsmMA6>.

¹⁸ Sen. Richard Blumenthal, *The threat to U.S. elections is real, and frightening. The public has a right to know*, The Washington Post (Aug. 7, 2020), <https://bit.ly/3BCYcdy>.

political campaigns would be subject to hacking attacks and that material obtained through those hacking attacks would likely be disseminated over social media platforms, including Twitter. These expectations of hack-and-leak operations were discussed throughout 2020. I also learned in these meetings that there were rumors that a hack-and-leak operation would involve Hunter Biden.¹⁹

These warnings, however, were not based on any new intelligence information.²⁰

On August 11, 2020, FBI agent Chan shared information with Twitter regarding a Russian hacking organization called “APT28” through the FBI’s secure, one-way communications channel.²¹ By mid-September 2020, the FBI and Twitter were operating an encrypted messaging network for employee communications.²² On September 15, 2020, Laura Dehmlo from the FBI’s Foreign Influence Task Force and Agent Chan requested permission to provide former FBI General Counsel Baker a classified briefing.²³

On or about September 20, 2020, the “Aspen Digital Hack-and-Dump Working Group” ran a “table-top exercise” titled “The Burisma Leak” for social media platforms and top national security reporters for the New York Times, and the Washington Post. The purpose of the exercise was to game a response to the release of documents demonstrating Biden family corruption, ostensibly by ATP28.²⁴ A part of the Aspen Institute, a leftist foundation led by Democrat party donors and operatives, Aspen Digital’s mission is to “empower[] policy-makers, civic organizations, companies, and the public to be responsible stewards of technology and media in the service of an informed, just, and equitable world” and stopping “Information Disorder.”²⁵

On September 23, 2020, Sen. Charles Grassley and Sen. Ron Johnson issued the Biden report. It was solely based on interviews with former U.S. government officials, Obama administration federal government records, and records from Blue Star Strategies, a Democrat lobbying firm. The report documented that the Biden family was “involved in a vast financial network that connected them to foreign nationals and foreign governments across the globe” and that they were trading on Joe Biden’s

¹⁹ See Declaration of Yoel Roth ¶11, FEC MUR7827 (Dec. 17, 2020), <https://bit.ly/3PGUDUZ>.

²⁰ See Shellenberger, *supra* n.1 at 14-21.

²¹ *Id.* at 23.

²² *Id.* at 32.

²³ *Id.* at 33.

²⁴ *Id.* at 31; Ace of Spades HQ, *The FBI Paid Twitter Three and a Half Million Dollars to “Help” It Censor “Misinformation”* (Dec. 20, 2022) (reproducing full Aspen Digital exercise agenda), <https://bit.ly/3YDxRkN>.

²⁵ Aspen Digital, *Home and Events landing pages* (last accessed Dec. 22, 2022), <https://bit.ly/3HVEbhS>.

government position for their own profit and gain.²⁶ The report further documented that Democrat committee members “misconstrued the facts of this investigation and...smeared it as *a Russian disinformation campaign*.” (Emphasis added.) To that end, the Democrats, especially Senators Peters, Wyden, and Blumenthal, lied about sources, manipulated classified information, and leaked confidential information to Politico and other politically aligned information organs.²⁷

On or before October 13, 2020, the FBI warned Facebook to be on “high alert” relating to a “Russian propaganda dump,” an apparent reference to the Biden laptop, which had been in the FBI’s possession for almost one year.²⁸ Whistleblowers allege that the FBI had done nothing with it then. “After the FBI obtained the Hunter Biden laptop from the Wilmington, DE computer shop, these whistleblowers stated that local FBI leadership told employees, ‘you will not look at that Hunter Biden laptop.’” The whistleblowers further allege that the FBI did not begin to examine the laptop’s contents until after the 2020 presidential election.²⁹

D. Executing the covert action to protect Joe Biden

On October 14, 2020, the New York Post reported strong evidence, in the form of emails from the laptop hard drive, of quid-pro-quo political corruption and influence peddling by then-candidate and former Vice President Joe Biden. The emails demonstrated that in or about April 2014, Hunter Biden, a person without any energy industry background or expertise whatsoever, was given a board seat by a Ukrainian gas company called Burisma. Burisma made \$83,333 payments monthly to Hunter Biden’s company.³⁰ In turn, Hunter Biden introduced then-Vice President Biden to a top Burisma executive. Shortly thereafter, Joe Biden pressured Ukrainian government officials into firing a prosecutor investigating Burisma by threatening to cancel a \$1 billion U.S. loan guarantee.³¹ Rudy Giuliani, former New York City Mayor

²⁶ U.S. Senate Committee on Homeland Security and Governmental Affairs and Committee on Finance, Majority Staff Report, *Hunter Biden, Burisma, and Corruption: The Impact on U.S. Government Policy and Related Concerns* at pp. 4-6, 31-33, 69, 71-79, 83-85 (Sep. 2020) (“Senate Report”), <https://bit.ly/3hxBGYg>.

²⁷ See generally *id.* at 55-64.

²⁸ Joseph A. Wulfsohn, *Mark Zuckerberg tells Joe Rogan FBI warned Facebook of ‘Russian propaganda’ before Hunter Biden laptop story*, Fox News (Aug. 25, 2022), <https://bit.ly/3FWxZ7S>.

²⁹ Brianna Herlihy, *FBI met weekly with Big Tech ahead of the 2020 election, agent testifies*, Fox News (Dec. 3, 2022), <https://fxn.ws/3j6Hatr>; *Letter from Sen. Ron Johnson to the Hon. Michael E. Horowitz* at 2 (Aug. 23, 2022) (cleaned up), <https://bit.ly/3WfIhFk>.

³⁰ Hunter Biden reportedly received \$1.5 million in total. Also, Burisma appears to have paid an additional \$1.5 million to a Hunter Biden business associate, Devon Archer. See Mattathias Schwartz, *The National Archives Wants to Release Hundreds of Pages of Emails about Hunter Biden and Burisma — and the White House Won’t Say Whether It Will Let It Happen*, Insider (Dec. 14, 2022), bit.ly/3PJ5620.

³¹ Emma-Jo Morris and Gabrielle Fonrouge, *Smoking-gun email reveals how Hunter Biden introduced Ukrainian businessman to VP dad*, The New York Post (Oct. 14, 2020), <https://bit.ly/3HDUUpE>.

and U.S. Attorney for the Southern District of New York, supplied the laptop to the newspaper.

Baker, his FBI allies, and Democrat operatives responded immediately. Baker insisted on an internal email that the Hunter Biden laptop evidence was faked and/or hacked,³² and reached out to Mathew Perry in the FBI's Office of General Counsel to coordinate a response.³³ Meanwhile, Democrat-aligned media organs immediately began an effort to discredit the evidence as Russian disinformation, apparently relying on FBI leaks and sources.

On October 15, 2020, the Hill linked Hunter Biden's laptop to an alleged Russian influence campaign to pass misinformation to President Trump. Citing an anonymous source, the Hill reported, "Several senior administration officials, including Attorney General William Barr, FBI Director Christopher Wray and White House counsel Pat Cipollone 'all had common understanding' that Russia was targeting the president's personal lawyer."³⁴ Also on October 15, 2020, NBC reported that "Federal investigators are examining whether emails allegedly describing activities by Joe Biden and his son Hunter and found on a laptop at a Delaware repair shop are linked to a foreign intelligence operation" based on claims made by "two people familiar with the matter"; and that the evidence of Biden corruption was "greeted with widespread skepticism."³⁵

On October 16, 2020, CNN reported, under six bylines, that "US authorities are investigating whether the published emails that purport to detail the business dealings of Joe Biden's son in Ukraine and China are connected to an ongoing Russian disinformation effort targeting the former vice president's campaign, a US official and a congressional source briefed on the matter said." CNN declared that "Giuliani has openly coordinated with a known Russian agent to promote disinformation about the Bidens" and that "The FBI is leading the investigation."³⁶

Also, on October 16, 2020, House Intelligence Committee Chairman Adam Schiff claimed that Hunter Biden's laptop was a Russian disinformation campaign. "We know that this whole smear on Joe Biden comes from the Kremlin," Schiff said, "That's been clear for well over a year now that they've been pushing this false

³² Shellenberger, *supra n.1* at 34-38.

³³ *Id.* at 39.

³⁴ Justine Coleman, *Intelligence officials warned Trump that Giuliani was target of Russian influence campaign: report*, The Hill (Oct. 15, 2020), <https://bit.ly/3WzHaQV>.

³⁵ Ken Dilanian, *Feds examining whether alleged Hunter Biden emails are linked to a foreign intel operation. One email, which has not been confirmed to be authentic, suggested a meeting between Joe Biden and a rep from a Ukraine firm that once paid his son Hunter*, NBC News (Oct. 15, 2020), <https://bit.ly/3BOh5FZ>.

³⁶ Marshall Cohen, Zachary Cohen, Michael Warren, Evan Perez, Alex Marquardt, and Mark Morales, *US authorities investigating if recently published emails are tied to Russian disinformation effort targeting Biden*, CNN (Oct. 16, 2020), <https://bit.ly/3PGVVPT>.

narrative about this vice president and his son. Clearly, the origins of this whole smear are from the Kremlin, and the president is only too happy to have Kremlin help and try to amplify it.”³⁷ At all times relevant, Schiff knew there was no competent evidence to support his claim that Hunter Biden’s laptop, and the evidence of Biden corruption contained on it, were “Russian disinformation.” Notably, Schiff was a key player in the campaign to amplify allegations of Russian collusion by former President Trump. At all times relevant, Schiff knew both that the Russia collusion allegations were false, and that these allegations had been fabricated by the Hillary Clinton campaign and operationalized by its allied intelligence community operatives.

Also on October 16, 2020, a Twitter executive noted “well-timed briefings from Gov’t sources...which would support an assessment that [the laptop is] neither whistleblower or dissident content.”³⁸ These briefings most likely included FBI officials.

On October 19, 2020, The Hill reported that the Director of National Intelligence John Ratcliffe said that there was no evidence to support the claim that Hunter Biden’s laptop and e-mails on it were part of a Russian disinformation campaign. According to the DNI, “The intelligence community doesn’t believe that because there is no intelligence that supports that. And we shared no intelligence with Chairman Schiff or any other member of Congress that Hunter Biden’s laptop is part of some Russian disinformation campaign.”³⁹

Also on October 19, 2020, Politico released a letter from 51 former intelligence officials, including political partisans John Brennan, Jim Clapper, and Michael Hayden, alleging that “the arrival on the US political scene of emails purportedly belonging to Vice President Biden’s son Hunter, much of it related to his time serving on the Board of the Ukrainian gas company Burisma, has all the classic earmarks of a Russian information operation.” The 51 former intelligence officials further alleged that “For the Russians at this point, with Trump down in the polls, there is incentive for Moscow to pull out the stops to do anything possible to help Trump win and/or to weaken Biden should he win. A ‘laptop op’ fits the bill, as the publication of the emails are clearly designed to discredit Biden.” The officials concluded that “Our view that the Russians are involved in the Hunter Biden email issue” was shared by “*Executive Branch departments and agencies [and] It is high time that Russia stops interfering in our democracy.*” (Emphasis in original.)⁴⁰

³⁷ Adam Shaw, *Adam Schiff claims Hunter Biden email stories come “from the Kremlin”*, Fox News (Oct. 17, 2020), <https://bit.ly/3V5Lczg>.

³⁸ *Id.* at 40.

³⁹ Olivia Beavers and Joe Concha, *Ratcliffe, Schiff battle over Biden emails, politicized intelligence*, The Hill (Oct. 19, 2020), <https://bit.ly/3W3OPY1>.

⁴⁰ Clapper, Brennan, et al, *Public Statement on the Hunter Biden Emails* (Oct. 19, 2020), <https://bit.ly/3FPVfnV>.

This letter had a significant impact on the 2020 election. It was repeatedly cited by Democrat operatives to discredit the evidence of Biden’s political corruption. Also, it was used by Democrat-aligned media organs to suppress the evidence from Hunter Biden’s laptop on the grounds that it was hacked or faked Russian disinformation.

E. The covert operation to protect Joe Biden achieved its objective

On March 16, 2022, the New York Times quietly admitted that the Hunter Biden laptop was genuine and that its contents were authentic.⁴¹ This admission came more than two years and three months after the FBI took possession of Hunter Biden’s laptop. Regardless, the evidence is clear that the FBI’s partisan covert action to protect Joe Biden, in collusion with Democrat politicians and operatives, and their allied social and other media organs,⁴² achieved its objective. Nearly four out of five Americans, or 79 percent, believe that had there been “truthful” coverage of the Hunter Biden laptop, it would have changed the outcome of the 2020 presidential election.⁴³

II. Records Requested

- A. All emails to or from John Brennan. The time frames for this item are September 1, 2020, to November 1, 2020, and March 23, 2022, to the date of processing.
- B. All records of or regarding the October 19, 2020, statement by DNI Ratcliffe. The time frame for this item is October 14, 2020, through October 30, 2020.
- C. All records of or regarding the “Public Statement on the Hunter Biden Emails” dated October 19, 2020, that is available at <https://www.politico.com/f/?id=00000175-4393-d7aa-af77-579f9b330000> and attached as Exhibit A.
- D. All records relating to or regarding the processing of the above items.

III. Custodians

- A. Avril Haines
- B. Shelby Pierson
- C. Stacey Dixon

⁴¹ Katie Benner, Kenneth P. Vogel and Michael S. Schmidt, *Hunter Biden Paid Tax Bill, but Broad Federal Investigation Continues*, The New York Times (Mar. 16, 2022), <https://bit.ly/3PuwUHF>.

⁴² Nick Nolte, *14 Media Outlets that Lied About Hunter Biden’s Laptop Scandal Being Russian Disinformation*, Breitbart (Dec. 10, 2022), <https://bit.ly/3WE0MUc>.

⁴³ Bruce Golding, *79% say ‘truthful’ coverage of Hunter Biden’s Laptop would have changed 2020 election*, The New York Post (Aug. 26, 2022), <https://bit.ly/3Vm6SaC>; see also Jerry Dunleavy, *Barr says Hunter Biden Russian disinformation claims ‘probably affected’ election outcome*, The Washington Examiner (Mar. 22, 2022), <https://bit.ly/3jqg00l>.

- D. Michael Orlando
- E. Jeffrey Wichman
- F. Former DNI John Ratcliffe
- G. All persons assigned to or working through the Foreign Malign Influence Center
- H. All political appointees, and all career employees with a GS-14, step 10 grade equivalent or higher, in the National Counterintelligence and Security Center

IV. Fee Waiver Request

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

V. Processing and Production

Processing should occur in strict compliance with the processing guidance in the Attorney General's Memorandum on Freedom of Information Act Guidelines. If you have any questions about our request or believe further discussions regarding search and processing would facilitate a more efficient production of records of interest to AFL, then please contact me at FOIA@aflegal.org. If AFL's request for a fee waiver is not granted in full, please contact us immediately upon making that determination.

To accelerate your 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 to America First Legal Foundation, 611 Pennsylvania Ave SE #231, Washington, DC 20003.

Thank you in advance for your cooperation.

Sincerely,

/s/ Reed D. Rubinstein
America First Legal Foundation

EXHIBIT A

Public Statement on the Hunter Biden Emails

October 19, 2020

We are all individuals who devoted significant portions of our lives to national security. Some of us served in senior positions in policy departments and agencies, and some of us served in senior positions in the Intelligence Community. Some of us were political appointees, and some were career officials. Many of us worked for presidents of both political parties.

We are all also individuals who see Russia as one of our nation's primary adversaries. All of us have an understanding of the wide range of Russian overt and covert activities that undermine US national security, with some of us knowing Russian behavior intimately, as we worked to defend our nation against it for a career. A few of us worked against Russian information operations in the United States in the last several years.

Perhaps most important, each of us believes deeply that American citizens should determine the outcome of elections, not foreign governments. All of us agree with the founding fathers' concern about the damage that foreign interference in our politics can do to our democracy.

It is for all these reasons that we write to say that the arrival on the US political scene of emails purportedly belonging to Vice President Biden's son Hunter, much of it related to his time serving on the Board of the Ukrainian gas company Burisma, has all the classic earmarks of a Russian information operation.

We want to emphasize that we do not know if the emails, provided to the New York Post by President Trump's personal attorney Rudy Giuliani, are genuine or not and that we do not have evidence of Russian involvement -- just that our experience makes us deeply suspicious that the Russian government played a significant role in this case.

If we are right, this is Russia trying to influence how Americans vote in this election, and we believe strongly that Americans need to be aware of this.

There are a number of factors that make us suspicious of Russian involvement.

Such an operation would be consistent with Russian objectives, as outlined publicly and recently by the Intelligence Community, to create political chaos in the United States and to deepen political divisions here but also to undermine the candidacy of former Vice President Biden and thereby help the candidacy of President Trump. For the Russians at this point, with Trump down in the polls, there is incentive for Moscow to pull out the stops to do anything possible to help Trump win and/or to weaken Biden should he win. A "laptop op" fits the bill, as the publication of the emails are clearly designed to discredit Biden.

Such an operation would be consistent with some of the key methods Russia has used in its now multi-year operation to interfere in our democracy – the hacking (via cyber operations) and the dumping of accurate information or the distribution of inaccurate or misinformation. Russia did both of these during the 2016 presidential election – judgments shared by the US Intelligence Community, the investigation into Russian activities by Special Counsel Robert Mueller, and the entirety (all Republicans and Democrats) on the current Senate Intelligence Committee.

Such an operation is also consistent with several data points. The Russians, according to media reports and cybersecurity experts, targeted Burisma late last year for cyber collection and gained access to its emails. And Ukrainian politician and businessman Adriy Derkach, identified and sanctioned by the US Treasury Department for being a 10-year Russian agent interfering in the 2020 election, passed purported materials on Burisma and Hunter Biden to Giuliani.

Our view that the Russians are involved in the Hunter Biden email issue is consistent with two other significant data points as well. According to the Washington Post, citing four sources, “U.S. intelligence agencies warned the White House last year that Giuliani was the target of an influence operation by Russian intelligence.”

In addition, media reports say that the FBI has now opened an investigation into Russian involvement in this case. According to USA Today, “...federal authorities are investigating whether the material supplied to the New York Post by Rudy Giuliani...is part of a smoke bomb of disinformation pushed by Russia.”

We do not know whether these press reports are accurate, but they do suggest concern within Executive Branch departments and agencies that mirrors ours. It is high time that Russia stops interfering in our democracy.

Signed by,

Jim Clapper
Former Director of National Intelligence
Former Under Secretary of Defense for Intelligence
Former Director of the National Geospatial Intelligence Agency
Former Director of the Defense Intelligence Agency

Mike Hayden
Former Director, Central Intelligence Agency
Former Director, National Security Agency
Former Principal Deputy Director of National Intelligence

Leon Panetta

Former Director, Central Intelligence Agency
Former Secretary of Defense

John Brennan
Former Director, Central Intelligence Agency
Former White House Homeland Security and Counterterrorism Advisor
Former Director, Terrorism Threat Integration Center
Former Analyst and Operations Officer, Central Intelligence Agency

Thomas Finger
Former Deputy Director of National Intelligence for Analysis
Former Assistant Secretary for Intelligence and Research, Department of State
Former Chair, National Intelligence Council

Rick Ledgett
Former Deputy Director, National Security Agency

John McLaughlin
Former Acting Director, Central Intelligence Agency
Former Deputy Director, Central Intelligence Agency
Former Director of Analysis, Central Intelligence Agency
Former Director, Slavic and Eurasian Analysis, Central Intelligence Agency

Michael Morell
Former Acting Director, Central Intelligence Agency
Former Deputy Director, Central Intelligence Agency
Former Director of Analysis, Central Intelligence Agency

Mike Vickers
Former Under Secretary of Defense for Intelligence
Former Operations Officer, Central Intelligence Agency

Doug Wise
Former Deputy Director, Defense Intelligence Agency
Former Senior CIA Operations Officer

Nick Rasmussen
Former Director, National Counterterrorism Center

Russ Travers
Former Acting Director, National Counterterrorism Center
Former Deputy Director, National Counterterrorism Center
Former Analyst of the Soviet Union and Russia, Defense Intelligence Agency

Andy Liepman

Former Deputy Director, National Counterterrorism Center
Former Senior Intelligence Officer, Central Intelligence Agency

John Moseman

Former Chief of Staff, Central Intelligence Agency
Former Director of Congressional Affairs, Central Intelligence Agency
Former Minority Staff Director, Senate Select Committee on Intelligence

Larry Pfeiffer

Former Chief of Staff, Central Intelligence Agency
Former Director, White House Situation Room

Jeremy Bash

Former Chief of Staff, Central Intelligence Agency
Former Chief of Staff, Department of Defense
Former Chief Counsel, House Permanent Select Committee on Intelligence

Rodney Snyder

Former Chief of Staff, Central Intelligence Agency
Former Director of Intelligence Programs, National Security Council
Chief of Station, Central Intelligence Agency

Glenn Gerstell

Former General Counsel, National Security Agency

David B. Buckley

Former Inspector General, Central Intelligence Agency
Former Democratic Staff Director, House Permanent Select Committee on Intelligence
Former Counterespionage Case Officer, United States Air Force

Nada Bakos

Former Analyst and Targeting Officer, Central Intelligence Agency

Patty Brandmaier

Former Senior Intelligence Officer, Central Intelligence Agency
Former Deputy Associate Director for Military Affairs, Central Intelligence Agency
Former Deputy Director of Congressional Affairs, Central Intelligence Agency

James B. Bruce

Former Senior Intelligence Officer, Central Intelligence Agency
Former Senior Intelligence Officer, National Intelligence Council

Considerable work related to Russia

David Cariens

Former Intelligence Analyst, Central Intelligence Agency
50+ Years Working in the Intelligence Community

Janice Cariens

Former Operational Support Officer, Central Intelligence Agency

Paul Kolbe

Former Senior Operations Officer, Central Intelligence Agency
Former Chief, Central Eurasia Division, Central Intelligence Agency

Peter Corsell

Former Analyst, Central Intelligence Agency

Brett Davis

Former Senior Intelligence Officer, Central Intelligence Agency
Former Deputy Director of the Special Activities Center for Expeditionary Operations, CIA

Roger Zane George

Former National Intelligence Officer

Steven L. Hall

Former Senior Intelligence Officer, Central Intelligence Agency
Former Chief of Russian Operations, Central Intelligence Agency

Kent Harrington

Former National Intelligence Officer for East Asia, Central Intelligence Agency
Former Director of Public Affairs, Central Intelligence Agency
Former Chief of Station, Central Intelligence Agency
Former Analyst, Central Intelligence Agency

Don Hepburn

Former Senior National Security Executive

Timothy D. Kilbourn

Former Dean, Sherman Kent School of Intelligence Analysis, Central Intelligence Agency
Former PDB Briefer to President George W. Bush, Central Intelligence Agency

Ron Marks

Former Officer, Central Intelligence Agency
Twice former staff of the Republican Majority Leader

Jonna Hiestand Mendez
Technical Operations Officer, Central Intelligence Agency

Emile Nakhleh
Former Director of the Political Islam Strategic Analysis Program, Central Intelligence Agency
Former Senior Intelligence Analyst, Central Intelligence Agency

Gerald A. O'Shea
Senior Operations Officer, Central Intelligence Agency
Served four tours as Chief of Station, Central Intelligence Agency

David Priess
Former Analyst and Manager, Central Intelligence Agency
Former PDB Briefer, Central Intelligence Agency

Pam Purcilly
Former Deputy Director of Analysis, Central Intelligence Agency
Former Director of the Office of Russian and European Analysis, Central Intelligence Agency
Former PDB Briefer to President George W. Bush, Central Intelligence Agency

Marc Polymeropoulos
Former Senior Operations Officer, Central Intelligence Agency
Former Acting Chief of Operations for Europe and Eurasia, Central Intelligence Agency

Chris Savos
Former Senior Intelligence Officer, Central Intelligence Officer

Nick Shapiro
Former Deputy Chief of Staff and Senior Advisor to the Director, Central Intelligence Agency

John Sipher
Former Senior Operations Officer, Central Intelligence Agency
Former Deputy Chief of Russian Operations, Central Intelligence Agency

Stephen Slick
Former Senior Director for Intelligence Programs, National Security Council
Former Senior Operations Office, Central Intelligence Agency

Cynthia Strand
Former Deputy Assistant Director for Global Issues, Central Intelligence Agency

Greg Tarbell

Former Deputy Executive Director, Central Intelligence Agency

Former Analyst of the Soviet Union and Russia, Central Intelligence Agency

David Terry

Former Chairman of the National Intelligence Collection Board

Former Chief of the PDB, Central Intelligence Agency

Former PDB Briefer to Vice President Dick Cheney, Central Intelligence Agency

Greg Treverton

Former Chair, National Intelligence Council

John Tullius

Former Senior Intelligence Officer, Central Intelligence Agency

David A. Vanell

Former Senior Operations Officer, Central Intelligence Agency

Winston Wiley

Former Director of Analysis, Central Intelligence Agency

Former Chief, Counterterrorism Center, Central Intelligence Agency

Kristin Wood

Former Senior Intelligence Officer, Central Intelligence Agency

Former PDB Briefer, Central Intelligence Agency

In addition, nine additional former IC officers who cannot be named publicly also support the arguments in this letter.



December 22, 2022

Via eFOIPA Portal

Federal Bureau of Investigation
Attn: Initial Processing Operations Unit
Record/Information Dissemination Section
200 Constitution Drive
Winchester, VA 22602

Freedom of Information Act Request: Hunter Biden Laptop/IC Corruption

Dear FOIA Officer:

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 distribute that work to a national audience through traditional and social media platforms. AFL's email list contains over 38,000 unique addresses, our Twitter page has approximately 47,300 followers, the Twitter page of our Founder and President has nearly 362,000 followers, our Facebook page has 102,000 followers, and we have another approximately 31,500 followers on GETTR.

I. Background

A. Legal framework

50 U.S.C. Subchapter III is titled "Accountability for Intelligence Activities." 50 U.S.C. § 3092 requires the U.S. intelligence community, including the FBI, to keep relevant congressional intelligence committees fully and currently informed of all intelligence or counterintelligence activities "engaged in by, or are carried out for or on behalf of, any department, agency, or entity of the United States Government." 50 U.S.C. § 3093(f) expressly prohibits the U.S. intelligence community, including the FBI, from engaging in covert action "intended to influence United States political processes, public opinion, policies, or media."

It appears that the FBI violated 50 U.S.C. § 3902 by failing to notify Congress of the Bureau’s domestic intelligence operation to influence U.S. political process, public opinion, policies, or media by discrediting and/or suppressing the evidence of corruption contained on Hunter Biden’s laptop as “Russian disinformation.” Although there is some ambiguity in the statutory text,¹ it also appears that the Hunter Biden operation, like the 2016 Russia collusion hoax before it,² violated 50 U.S.C. § 3903(f)’s prohibition on “covert action” aimed at affecting American elections.

B. The partisan origins of the claim that Hunter Biden’s laptop was “Russian disinformation”

On December 9, 2019, the FBI issued a subpoena for and took possession of Hunter Biden’s laptop.³ The hard drive contained emails, documents, and other evidence that then-former Vice President Joe Biden and his family had, for years, been running a political influence-peddling operation. Money flowed to the Biden family from, *inter alia*, the People’s Republic of China, Russia, and Ukraine.⁴ The evidence is that the FBI was engaged in a criminal investigation of Hunter Biden for money laundering at that time.⁵

On February 5, 2020, the Washington Post reported that Sen. Chuck Grassley and Sen. Ron Johnson were reviewing potential conflicts of interest posed by the business activities of Hunter Biden and his associates during the Obama administration,

¹ “Covert action” means an “activity or activities of the United States Government to influence political, economic, or military conditions abroad, where it is intended that the role of the United States Government will not be apparent or acknowledged publicly.” 50 U.S.C. § 3093(e)(1). Section 3093(f) provides: “No covert action may be conducted which is intended to influence United States political processes, public opinion, policies, or media.” Read narrowly, § 3903 thus seems to prohibit only “covert actions” overseas that are intended to influence U.S. elections, public opinion, policies, or media. However, it is a “fundamental canon of statutory construction that the words of a statute must be read in their context and with a view to their place in the overall statutory scheme” and hornbook law that statutes must be read symmetrically and coherently as a harmonious whole. *Food & Drug Admin. v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120, 133 (2000) (citations omitted). To contend that Congress would prohibit the FBI from engaging in a *foreign* covert action to affect U.S. elections but allow the FBI to engage in a *domestic* covert action for the same purpose is to upend Subchapter III’s statutory purpose and scheme.

² Even under a narrow reading, the FBI’s Russia collusion hoax violated 50 U.S.C. § 3093(f). See e.g., *United States v. Michael A. Sussmann*, ECF No. 1, No.1:21-cr-00582 (D.D.C. Sept. 16, 2021); *United States v. Igor Y. Danchenko*, ECF No. 1, No. 1:21-CR-245 (E.D. Va. Nov. 3, 2021); J. Peter Zane, *Why the Russiagate Scandal Outranks the Rest*, Real Clear Politics (Dec. 8, 2021), <https://bit.ly/3FOHYLh>; Lee Smith, “Here Comes the Limited Hangout”, Tablet (Dec. 2, 2021), <https://bit.ly/3Purpsj>; Jonathon Turley, “A Means of Distracting the Public”: Brennan Briefed Obama on Clinton “Plan” to Tie Trump to Russia, Res Ipsa Loquitur (Oct. 7, 2020), <https://bit.ly/3FVGSi1>; Matt Taibbi, *It’s official: Russiagate is this generation’s WMD, The Iraq war faceplant damaged the reputation of the press. Russiagate just destroyed it*, TK News by Matt Taibbi (Mar. 23, 2019), <http://bit.ly/3FSMMAc>.

³ Michael Shellenberger, *Twitter Files: Part 7* no. 4 (Dec. 19, 2022), bit.ly/3W18anx.

⁴ *Id.* at no. 11.

⁵ Ian Schwartz, *James Rosen: FBI Has An Active Criminal Investigation Into Hunter Biden For Money Laundering*, RealClear Politics (Oct. 29, 2020), <https://bit.ly/3PI6baq>.

particularly with respect to the Biden family’s business activities in Ukraine and China.⁶ As part of that investigation, Senate staff requested Obama administration records from the National Archives, including presidential records held by former President Obama. On March 13, 2020, an Obama representative responded by alleging that the purpose of the records request was to “give credence to a Russian disinformation campaign.”⁷ Also in March 2020, the FBI and relevant members of the Intelligence Community briefed the Senate investigators and “provided assurances that there was no reason that our committees should not continue their investigation.”⁸ The FBI did not inform the Senate investigators that it had possession of the Biden laptop.

On May 20, 2020, the Senate Homeland Security and Governmental Affairs Committee voted to subpoena a lobbying firm that worked with Burisma, a Ukrainian company that paid Hunter Biden to serve on its board. Opposing the subpoena, Democrats said that the Senate investigation into Biden and his son would aid Russia’s disinformation campaign ahead of the November election.⁹

B. Building the foundation for partisan covert action to protect Joe Biden in the 2020 Presidential election

On or about June 15, 2020, former FBI general counsel James Baker, a central figure in the Russia collusion hoax, was named Twitter’s Deputy General Counsel.¹⁰ According to the former Director of National Intelligence:

Jim Baker is the person who was involved in writing an exoneration memo for Hillary Clinton, having classified information on her server before the FBI ever interviewed her. He’s the person who hand-carried information from Hillary Clinton’s campaign lawyer, Michael Sussmann, into the FBI, false information about a relationship between the Trump campaign and the Russian Alfa Bank. It continued on with him trying to invoke the 25th Amendment to remove Donald Trump after Donald Trump fired Jim Comey. He was involved in the leak investigation involving Jim Comey that was the subject of the FBI inspector general [investigation].¹¹

⁶ Colby Itkowitz, *GOP senators request travel documents in Hunter Biden investigation*, The Washington Post (Feb. 2, 2020), <https://bit.ly/3YEvzlo>.

⁷ Emma Loop, *Obama Privately Blasted A Republican Investigation Into Joe Biden And Ukraine, Calling It An Effort To Boost “Russian Disinformation”*, BuzzFeed (May 5, 2020), <https://bit.ly/3hLDnRV>.

⁸ *Letter from Sen. Charles E. Grassley and Sen. Ron Johnson to Ms. Nikki Floris and Mr. Brandley Benavides* at p.2, n.7 (Aug. 25, 2022), <https://bit.ly/3GaIJj5>.

⁹ RFE/RL, *U.S. Senate Committee Issues Subpoena In Probe Of Hunter Biden’s Ukraine Ties*, RadioFreeEurope/RadioLiberty (May 21, 2020), <https://bit.ly/3jlR76n>.

¹⁰ Thornton McEnery, Jaclyn Hendricks, and Emily Jacobs, *Twitter hires former FBI lawyer James Baker to join legal team*, New York Post (June 16, 2020), <https://bit.ly/3YRD2hk>.

¹¹ Jessica Chasmar, *Ratcliffe: No ‘coincidence’ Jim Baker got top Twitter job after pushing Russian collusion narrative*, Fox News (Dec. 12, 2022), <https://bit.ly/3jm8rrV>.

Baker was one of many former FBI employees working at Twitter, including Dawn Burton, the former deputy chief of staff to FBI head James Comey, who was responsible for initiating the Russia collusion hoax investigation to hamstring Donald Trump. Burton joined Twitter in 2019 as director of strategy.¹²

On July 13, 2020, then-Minority Leader Schumer, Sen. Mark Warner, Speaker Pelosi, and Rep. Adam Schiff sent a letter with a classified attachment to the FBI claiming that Congress was the subject of a Russian disinformation campaign. The classified attachment included unclassified elements that, among other things, attempted – and failed – to tie the Senate investigation into the Biden family’s financial deals to Russian disinformation. Those elements were then leaked to the press.¹³

On July 15, 2020, FBI Supervisory Special Agent Elvis M. Chan offered Twitter temporary security clearances “30 days out from the election.”

On July 16, 2020, then-Ranking Member Peters and then-Ranking Member Wyden requested a briefing from the FBI’s Foreign Influence Task Force on matters purportedly relating to the Biden investigation.

On July 23, 2020, Politico published an article alleging a “foreign disinformation plot to damage former vice president Joe Biden” based on “a farcical, long-debunked, hardcore right-wing conspiracy theory” of Biden family corruption. According to Politico, Democrat concerns were triggered by the prospect of “foreign interference in the 2020 race and fear of *another Kremlin-led effort to boost Trump’s reelection prospects.*” (Emphasis added.)¹⁴ This article regurgitated information leaked by the Democrats and as one part of a much broader leftist information effort to use the “Russian disinformation” mantra as a shield to prevent independent inquiries into the Bidens’ foreign entanglements.¹⁵

On August 6, 2020, FBI employees Nikki Floris and Bradley Benavides conducted the subject briefing. It consisted primarily of information known to Senate investigators and certain other information unconnected to the Biden investigation. The briefing did not include a disclosure that the FBI had Hunter Biden’s laptop in its possession despite having it for eight months. At the briefing as well as after, Grassley and Johnson requested relevant records relating to what happened at the briefing, including the 302 or similar summary, the intelligence basis for the briefing and the

¹² Shellenberger, *supra* at 28-29.

¹³ *Letter from Sen. Charles E. Grassley and Sen. Ron Johnson, supra* n.6

¹⁴ Natasha Bertrand, *Democrats: Packets sent to Trump allies are part of foreign plot to damage Biden*, Politico (July 23, 2020), <https://bit.ly/3j0yfcJ>.

¹⁵ See, e.g., Ryan Goodman and Asha Rangappa, *How Sen. Ron Johnson’s Investigation Became an Enabler of Russian Disinformation: Part I*, Just Security (Aug. 11, 2020), <https://bit.ly/3v9fdDZ>; Asha Rangappa and Ryan Goodman, *Manafort’s Reward: Sen. Ron Johnson and the Ukraine Conspiracy Investigation: Part II*, Just Security (Aug. 24, 2020), <https://bit.ly/3FOnjXl>.

personnel involved in making the decision to brief them. Until today, the FBI has failed to provide the relevant records.¹⁶

According to FBI whistleblowers, FBI Supervisory Intelligence Analyst Brian Auten opened an assessment that was used by an FBI Headquarters (“FBI HQ”) team to improperly discredit negative Hunter Biden information as disinformation. This caused investigative activity to cease at approximately the same time as the August 6 briefing. Based on allegations, verified and verifiable derogatory information on Hunter Biden was falsely labeled by FBI managers as disinformation.¹⁷

On August 7, 2020, Senator Richard Blumenthal published an opinion article in the Washington Post alleging that:

[T]he Homeland Security and Governmental Affairs Committee, is moving ahead with an investigation into presumptive Democratic presidential nominee Joe Biden’s family using documents provided to the senator by the son of a former KGB officer. Johnson’s actions are of such concern to the CIA, according to news reports, that the agency has refused to brief him. Think of it: Congress may become a forum for debunked conspiracy theories peddled by Kremlin proxies. *There is no excuse for perpetuating Russian disinformation in the U.S. Senate...*

(Emphasis added.)¹⁸ Blumenthal, however, lied.

C. Planning the partisan covert action to protect Joe Biden

At all times relevant, the FBI had possession of Hunter Biden’s laptop and knew, or should have known, that it and the information it contained were original and genuine, and not the product of foreign malign action. Nevertheless, it had been feeding social media companies, including Twitter, and others curated information regarding alleged threats to election integrity by “state actors,” reinforcing these corporations’ preexisting ideological antipathy to and bias against then-President Trump and his administration. According to a December 2020 declaration by Twitter’s “Head of Site Integrity”:

[F]ederal law enforcement agencies communicated that they expected “hack-and-leak operations” by state actors might occur in the period shortly before the 2020 presidential election, likely in October. I was told in these meetings that the intelligence community expected that individuals associated with

¹⁶ Letter from Sen. Charles E. Grassley and Sen. Ron Johnson, *supra* n.6 at 3.

¹⁷ Letter from Sen. Charles E. Grassley to the Hon. Merrick Garland and the Hon. Christopher Wray at 1 (July 25, 2022), <https://bit.ly/3SsmMA6>.

¹⁸ Sen. Richard Blumenthal, *The threat to U.S. elections is real, and frightening. The public has a right to know*, The Washington Post (Aug. 7, 2020), <https://bit.ly/3BCYcdy>.

political campaigns would be subject to hacking attacks and that material obtained through those hacking attacks would likely be disseminated over social media platforms, including Twitter. These expectations of hack-and-lead operations were discussed throughout 2020. I also learned in these meetings that there were rumors that a hack-and-lead operation would involve Hunter Biden.¹⁹

These warnings, however, were not based on any new intelligence information.²⁰

On August 11, 2020, FBI agent Chan shared information with Twitter regarding a Russian hacking organization called “APT28” through the FBI’s secure, one-way communications channel.²¹ By mid-September 2020, the FBI and Twitter were operating an encrypted messaging network for employee communications.²² On September 15, 2020, Laura Dehmlow from the FBI’s Foreign Influence Task Force and Agent Chan requested permission to provide former FBI General Counsel Baker a classified briefing.²³

On or about September 20, 2020, the “Aspen Digital Hack-and-Dump Working Group” ran a “table-top exercise” titled “The Burisma Leak” for social media platforms and top national security reporters for the New York Times, and the Washington Post. The purpose of the exercise was to game a response to the release of documents demonstrating Biden family corruption, ostensibly by ATP28.²⁴ A part of the Aspen Institute, a leftist foundation led by Democrat party donors and operatives, Aspen Digital’s mission is to “empower[] policy-makers, civic organizations, companies, and the public to be responsible stewards of technology and media in the service of an informed, just, and equitable world” and stopping “Information Disorder.”²⁵

On September 23, 2020, Sen. Charles Grassley and Sen. Ron Johnson issued the Biden report. It was solely based on interviews with former U.S. government officials, Obama administration federal government records, and records from Blue Star Strategies, a Democrat lobbying firm. The report documented that the Biden family was “involved in a vast financial network that connected them to foreign nationals and foreign governments across the globe” and that they were trading on Joe Biden’s

¹⁹ See Declaration of Yoel Roth ¶11, FEC MUR7827 (Dec. 17, 2020), <https://bit.ly/3PGUDUZ>.

²⁰ See Shellenberger, *supra* n.1 at 14-21.

²¹ *Id.* at 23.

²² *Id.* at 32.

²³ *Id.* at 33.

²⁴ *Id.* at 31; Ace of Spades HQ, *The FBI Paid Twitter Three and a Half Million Dollars to “Help” It Censor “Misinformation”* (Dec. 20, 2022) (reproducing full Aspen Digital exercise agenda), <https://bit.ly/3YDxRkN>.

²⁵ Aspen Digital, *Home and Events landing pages* (last accessed Dec. 22, 2022), <https://bit.ly/3HVEbhS>.

government position for their own profit and gain.²⁶ The report further documented that Democrat committee members “misconstrued the facts of this investigation and...smeared it as *a Russian disinformation campaign*.” (Emphasis added.) To that end, the Democrats, especially Senators Peters, Wyden, and Blumenthal, lied about sources, manipulated classified information, and leaked confidential information to Politico and other politically aligned information organs.²⁷

On or before October 13, 2020, the FBI warned Facebook to be on “high alert” relating to a “Russian propaganda dump,” an apparent reference to the Biden laptop, which had been in the FBI’s possession for almost one year.²⁸ Whistleblowers allege that the FBI had done nothing with it then. “After the FBI obtained the Hunter Biden laptop from the Wilmington, DE computer shop, these whistleblowers stated that local FBI leadership told employees, ‘you will not look at that Hunter Biden laptop.’” The whistleblowers further allege that the FBI did not begin to examine the laptop’s contents until after the 2020 presidential election.²⁹

D. Executing the covert action to protect Joe Biden

On October 14, 2020, the New York Post reported strong evidence, in the form of emails from the laptop hard drive, of quid-pro-quo political corruption and influence peddling by then-candidate and former Vice-President Joe Biden. The emails demonstrated that in or about April 2014, Hunter Biden, a person without any energy industry background or expertise whatsoever, was given a board seat by a Ukrainian gas company called Burisma. Burisma made \$83,333 payments monthly to Hunter Biden’s company.³⁰ In turn, Hunter Biden introduced then-Vice President Biden to a top Burisma executive. Shortly thereafter, Joe Biden pressured Ukrainian government officials into firing a prosecutor investigating Burisma by threatening to cancel a \$1 billion U.S. loan guarantee.³¹ Rudy Giuliani, former New York City Mayor

²⁶ U.S. Senate Committee on Homeland Security and Governmental Affairs and Committee on Finance, Majority Staff Report, *Hunter Biden, Burisma, and Corruption: The Impact on U.S. Government Policy and Related Concerns* at pp. 4-6, 31-33, 69, 71-79, 83-85 (Sep. 2020) (“Senate Report”), <https://bit.ly/3hxBGYg>.

²⁷ See generally *id.* at 55-64.

²⁸ Joseph A. Wulfsohn, *Mark Zuckerberg tells Joe Rogan FBI warned Facebook of ‘Russian propaganda’ before Hunter Biden laptop story*, Fox News (Aug. 25, 2022), <https://bit.ly/3FWxZ7S>.

²⁹ Brianna Herlihy, *FBI met weekly with Big Tech ahead of the 2020 election, agent testifies*, Fox News (Dec. 3, 2022), <https://fxn.ws/3j6Hatr>; *Letter from Sen. Ron Johnson to the Hon. Michael E. Horowitz* at 2 (Aug. 23, 2022) (cleaned up), <https://bit.ly/3WfIhFk>.

³⁰ Hunter Biden reportedly received \$1.5 million in total. Also, Burisma appears to have paid an additional \$1.5 million to a Hunter Biden business associate, Devon Archer. See Mattathias Schwartz, *The National Archives Wants to Release Hundreds of Pages of Emails about Hunter Biden and Burisma — and the White House Won’t Say Whether It Will Let It Happen*, Insider (Dec. 14, 2022), bit.ly/3PJ5620.

³¹ Emma-Jo Morris and Gabrielle Fonrouge, *Smoking-gun email reveals how Hunter Biden introduced Ukrainian businessman to VP dad*, The New York Post (Oct. 14, 2020), <https://bit.ly/3HDUUpE>.

and U.S. Attorney for the Southern District of New York, supplied the laptop to the newspaper.

Baker, his FBI allies, and Democrat operatives responded immediately. Baker insisted on an internal email that the Hunter Biden laptop evidence was faked and/or hacked,³² and reached out to Mathew Perry in the FBI's Office of General Counsel to coordinate a response.³³ Meanwhile, Democrat-aligned media organs immediately began an effort to discredit the evidence as Russian disinformation, apparently relying on FBI leaks and sources.

On October 15, 2020, the Hill linked Hunter Biden's laptop to an alleged Russian influence campaign to pass misinformation to President Trump. Citing an anonymous source, the Hill reported, "Several senior administration officials, including Attorney General William Barr, FBI Director Christopher Wray and White House counsel Pat Cipollone 'all had common understanding' that Russia was targeting the president's personal lawyer."³⁴ Also on October 15, 2020, NBC reported that "Federal investigators are examining whether emails allegedly describing activities by Joe Biden and his son Hunter and found on a laptop at a Delaware repair shop are linked to a foreign intelligence operation" based on claims made by "two people familiar with the matter"; and that the evidence of Biden corruption was "greeted with widespread skepticism."³⁵

On October 16, 2020, CNN reported, under six bylines, that "US authorities are investigating whether the published emails that purport to detail the business dealings of Joe Biden's son in Ukraine and China are connected to an ongoing Russian disinformation effort targeting the former vice president's campaign, a US official and a congressional source briefed on the matter said." CNN declared that "Giuliani has openly coordinated with a known Russian agent to promote disinformation about the Bidens" and that "The FBI is leading the investigation."³⁶

Also, on October 16, 2020, House Intelligence Committee Chairman Adam Schiff claimed that Hunter Biden's laptop was a Russian disinformation campaign. "We know that this whole smear on Joe Biden comes from the Kremlin," Schiff said, "That's been clear for well over a year now that they've been pushing this false

³² Shellenberger, *supra n.1* at 34-38.

³³ *Id.* at 39.

³⁴ Justine Coleman, *Intelligence officials warned Trump that Giuliani was target of Russian influence campaign: report*, The Hill (Oct. 15, 2020), <https://bit.ly/3WzHaQV>.

³⁵ Ken Dilanian, *Feds examining whether alleged Hunter Biden emails are linked to a foreign intel operation. One email, which has not been confirmed to be authentic, suggested a meeting between Joe Biden and a rep from a Ukraine firm that once paid his son Hunter*, NBC News (Oct. 15, 2020), <https://bit.ly/3BOh5FZ>.

³⁶ Marshall Cohen, Zachary Cohen, Michael Warren, Evan Perez, Alex Marquardt, and Mark Morales, *US authorities investigating if recently published emails are tied to Russian disinformation effort targeting Biden*, CNN (Oct. 16, 2020), <https://bit.ly/3PGVVPT>.

narrative about this vice president and his son. Clearly, the origins of this whole smear are from the Kremlin, and the president is only too happy to have Kremlin help and try to amplify it.”³⁷ At all times relevant, Schiff knew there was no competent evidence to support his claim that Hunter Biden’s laptop, and the evidence of Biden corruption contained on it, were “Russian disinformation.” Notably, Schiff was a key player in the campaign to amplify allegations of Russian collusion by former President Trump. At all times relevant, Schiff knew both that the Russia collusion allegations were false, and that these allegations had been fabricated by the Hillary Clinton campaign and operationalized by its allied intelligence community operatives.

Also on October 16, 2020, a Twitter executive noted “well-timed briefings from Gov’t sources...which would support an assessment that [the laptop is] neither whistleblower or dissident content.”³⁸ These briefings most likely included FBI officials.

On October 19, 2020, The Hill reported that the Director of National Intelligence John Ratcliff said that there was no evidence to support the claim that Hunter Biden’s laptop and e-mails on it were part of a Russian disinformation campaign. According to the DNI, “The intelligence community doesn’t believe that because there is no intelligence that supports that. And we shared no intelligence with Chairman Schiff or any other member of Congress that Hunter Biden’s laptop is part of some Russian disinformation campaign.”³⁹

Also on October 19, 2020, Politico released a letter from 51 former intelligence officials, including political partisans John Brennan, Jim Clapper, and Michael Hayden, alleging that “the arrival on the US political scene of emails purportedly belonging to Vice President Biden’s son Hunter, much of it related to his time serving on the Board of the Ukrainian gas company Burisma, has all the classic earmarks of a Russian information operation.” The 51 former intelligence officials further alleged that “For the Russians at this point, with Trump down in the polls, there is incentive for Moscow to pull out the stops to do anything possible to help Trump win and/or to weaken Biden should he win. A ‘laptop op’ fits the bill, as the publication of the emails are clearly designed to discredit Biden.” The officials concluded that “Our view that the Russians are involved in the Hunter Biden email issue” was shared by “*Executive Branch departments and agencies [and] It is high time that Russia stops interfering in our democracy.*” (Emphasis in original.)⁴⁰

³⁷ Adam Shaw, *Adam Schiff claims Hunter Biden email stories come ‘from the Kremlin’*, Fox News (Oct. 17, 2020), <https://bit.ly/3V5Lczg>.

³⁸ *Id.* at 40.

³⁹ Olivia Beavers and Joe Concha, *Ratcliffe, Schiff battle over Biden emails, politicized intelligence*, The Hill (Oct. 19, 2020), <https://bit.ly/3W3OPY1>.

⁴⁰ Clapper, Brennan, et al, *Public Statement on the Hunter Biden Emails* (Oct. 19, 2020), <https://bit.ly/3FPVfnV>.

This letter had a significant impact on the 2020 election. It was repeatedly cited by Democrat operatives to discredit the evidence of Biden’s political corruption. Also, it was used by Democrat-aligned media organs to suppress the evidence from Hunter Biden’s laptop on the grounds that it was hacked or faked Russian disinformation.

E. The covert operation to protect Joe Biden achieved its objective

On March 16, 2022, the New York Times quietly admitted that the Hunter Biden laptop was genuine and that its contents were authentic.⁴¹ This admission came more than two years and three months after the FBI took possession of Hunter Biden’s laptop. Regardless, the evidence is clear that the FBI’s partisan covert action to protect Joe Biden, in collusion with Democrat politicians and operatives, and their allied social and other media organs,⁴² achieved its objective. Nearly four out of five Americans, or 79 percent, believe that had there been “truthful” coverage of the Hunter Biden laptop, it would have changed the outcome of the 2020 presidential election.⁴³

II. Records Requested

- A. All emails to or from John Brennan. The time frames for this item are October 1, 2020, to November 1, 2020, and March 23, 2022, to the date of processing.
- B. All records of, mentioning, or regarding the “Public Statement on the Hunter Biden Emails” dated October 19, 2020, that is available at <https://www.politico.com/f/?id=00000175-4393-d7aa-af77-579f9b330000> and attached as Exhibit A.
- C. For custodians Wray, Floris, and Benavides ONLY all records and communications of or regarding Sen. Charles Grassley, Sen. Ron Johnson, and/or Hunter Biden. The time frame for this item is July 15, 2020, to November 3, 2020.
- D. All records of or regarding the processing of the above items.

⁴¹ Katie Benner, Kenneth P. Vogel and Michael S. Schmidt, *Hunter Biden Paid Tax Bill, but Broad Federal Investigation Continues*, The New York Times (Mar. 16, 2022), <https://bit.ly/3PuwUHF>.

⁴² Nick Nolte, *14 Media Outlets that Lied About Hunter Biden’s Laptop Scandal Being Russian Disinformation*, Breitbart (Dec. 10, 2022), <https://bit.ly/3WE0MUc>.

⁴³ Bruce Golding, *79% say ‘truthful’ coverage of Hunter Biden’s Laptop would have changed 2020 election*, The New York Post (Aug. 26, 2022), <https://bit.ly/3Vm6SaC>; see also Jerry Dunleavy, *Barr says Hunter Biden Russian disinformation claims ‘probably affected’ election outcome*, The Washington Examiner (Mar. 22, 2022), <https://bit.ly/3jqg00l>.

III. Custodians

- A. All persons assigned to, working for, or working through the Foreign Influence Task Force
- B. Christopher Wray
- C. Paul Abbate
- D. Brian C. Turner
- E. Jonathan Lenzner
- F. Nikki Floris
- G. Bradley Benavides
- H. Ryan T. Young
- I. Matthew Perry
- J. Tonya Ugoretz
- K. Larissa L. Knapp
- L. Alan E. Kohler
- M. Laura Dehmlow
- N. Luke Giannini
- O. Bill Cone
- P. Brady Olson
- Q. Judy Chock
- R. Elvis Chan
- S. All employees with a grade equivalent of GS-13 step 10 or above in the Dover and Wilmington, Delaware satellite offices

IV. Fee Waiver Request

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

V. Processing and Production

Processing should occur in strict compliance with the processing guidance in the Attorney General's Memorandum on Freedom of Information Act Guidelines. If you have any questions about our request or believe further discussions regarding search and processing would facilitate a more efficient production of records of interest to

AFL, then please contact me at FOIA@aflegal.org. If AFL's request for a fee waiver is not granted in full, please contact us immediately upon making that determination.

To accelerate your 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 to America First Legal Foundation, 611 Pennsylvania Ave SE #231, Washington, DC 20003.

Thank you in advance for your cooperation.

Sincerely,

/s/ Reed D. Rubinstein
America First Legal Foundation

EXHIBIT A

Public Statement on the Hunter Biden Emails

October 19, 2020

We are all individuals who devoted significant portions of our lives to national security. Some of us served in senior positions in policy departments and agencies, and some of us served in senior positions in the Intelligence Community. Some of us were political appointees, and some were career officials. Many of us worked for presidents of both political parties.

We are all also individuals who see Russia as one of our nation's primary adversaries. All of us have an understanding of the wide range of Russian overt and covert activities that undermine US national security, with some of us knowing Russian behavior intimately, as we worked to defend our nation against it for a career. A few of us worked against Russian information operations in the United States in the last several years.

Perhaps most important, each of us believes deeply that American citizens should determine the outcome of elections, not foreign governments. All of us agree with the founding fathers' concern about the damage that foreign interference in our politics can do to our democracy.

It is for all these reasons that we write to say that the arrival on the US political scene of emails purportedly belonging to Vice President Biden's son Hunter, much of it related to his time serving on the Board of the Ukrainian gas company Burisma, has all the classic earmarks of a Russian information operation.

We want to emphasize that we do not know if the emails, provided to the New York Post by President Trump's personal attorney Rudy Giuliani, are genuine or not and that we do not have evidence of Russian involvement -- just that our experience makes us deeply suspicious that the Russian government played a significant role in this case.

If we are right, this is Russia trying to influence how Americans vote in this election, and we believe strongly that Americans need to be aware of this.

There are a number of factors that make us suspicious of Russian involvement.

Such an operation would be consistent with Russian objectives, as outlined publicly and recently by the Intelligence Community, to create political chaos in the United States and to deepen political divisions here but also to undermine the candidacy of former Vice President Biden and thereby help the candidacy of President Trump. For the Russians at this point, with Trump down in the polls, there is incentive for Moscow to pull out the stops to do anything possible to help Trump win and/or to weaken Biden should he win. A "laptop op" fits the bill, as the publication of the emails are clearly designed to discredit Biden.

Such an operation would be consistent with some of the key methods Russia has used in its now multi-year operation to interfere in our democracy – the hacking (via cyber operations) and the dumping of accurate information or the distribution of inaccurate or misinformation. Russia did both of these during the 2016 presidential election – judgments shared by the US Intelligence Community, the investigation into Russian activities by Special Counsel Robert Mueller, and the entirety (all Republicans and Democrats) on the current Senate Intelligence Committee.

Such an operation is also consistent with several data points. The Russians, according to media reports and cybersecurity experts, targeted Burisma late last year for cyber collection and gained access to its emails. And Ukrainian politician and businessman Adriy Derkach, identified and sanctioned by the US Treasury Department for being a 10-year Russian agent interfering in the 2020 election, passed purported materials on Burisma and Hunter Biden to Giuliani.

Our view that the Russians are involved in the Hunter Biden email issue is consistent with two other significant data points as well. According to the Washington Post, citing four sources, “U.S. intelligence agencies warned the White House last year that Giuliani was the target of an influence operation by Russian intelligence.”

In addition, media reports say that the FBI has now opened an investigation into Russian involvement in this case. According to USA Today, “...federal authorities are investigating whether the material supplied to the New York Post by Rudy Giuliani...is part of a smoke bomb of disinformation pushed by Russia.”

We do not know whether these press reports are accurate, but they do suggest concern within Executive Branch departments and agencies that mirrors ours. It is high time that Russia stops interfering in our democracy.

Signed by,

Jim Clapper
Former Director of National Intelligence
Former Under Secretary of Defense for Intelligence
Former Director of the National Geospatial Intelligence Agency
Former Director of the Defense Intelligence Agency

Mike Hayden
Former Director, Central Intelligence Agency
Former Director, National Security Agency
Former Principal Deputy Director of National Intelligence

Leon Panetta

Former Director, Central Intelligence Agency
Former Secretary of Defense

John Brennan
Former Director, Central Intelligence Agency
Former White House Homeland Security and Counterterrorism Advisor
Former Director, Terrorism Threat Integration Center
Former Analyst and Operations Officer, Central Intelligence Agency

Thomas Finger
Former Deputy Director of National Intelligence for Analysis
Former Assistant Secretary for Intelligence and Research, Department of State
Former Chair, National Intelligence Council

Rick Ledgett
Former Deputy Director, National Security Agency

John McLaughlin
Former Acting Director, Central Intelligence Agency
Former Deputy Director, Central Intelligence Agency
Former Director of Analysis, Central Intelligence Agency
Former Director, Slavic and Eurasian Analysis, Central Intelligence Agency

Michael Morell
Former Acting Director, Central Intelligence Agency
Former Deputy Director, Central Intelligence Agency
Former Director of Analysis, Central Intelligence Agency

Mike Vickers
Former Under Secretary of Defense for Intelligence
Former Operations Officer, Central Intelligence Agency

Doug Wise
Former Deputy Director, Defense Intelligence Agency
Former Senior CIA Operations Officer

Nick Rasmussen
Former Director, National Counterterrorism Center

Russ Travers
Former Acting Director, National Counterterrorism Center
Former Deputy Director, National Counterterrorism Center
Former Analyst of the Soviet Union and Russia, Defense Intelligence Agency

Andy Liepman

Former Deputy Director, National Counterterrorism Center
Former Senior Intelligence Officer, Central Intelligence Agency

John Moseman

Former Chief of Staff, Central Intelligence Agency
Former Director of Congressional Affairs, Central Intelligence Agency
Former Minority Staff Director, Senate Select Committee on Intelligence

Larry Pfeiffer

Former Chief of Staff, Central Intelligence Agency
Former Director, White House Situation Room

Jeremy Bash

Former Chief of Staff, Central Intelligence Agency
Former Chief of Staff, Department of Defense
Former Chief Counsel, House Permanent Select Committee on Intelligence

Rodney Snyder

Former Chief of Staff, Central Intelligence Agency
Former Director of Intelligence Programs, National Security Council
Chief of Station, Central Intelligence Agency

Glenn Gerstell

Former General Counsel, National Security Agency

David B. Buckley

Former Inspector General, Central Intelligence Agency
Former Democratic Staff Director, House Permanent Select Committee on Intelligence
Former Counterespionage Case Officer, United States Air Force

Nada Bakos

Former Analyst and Targeting Officer, Central Intelligence Agency

Patty Brandmaier

Former Senior Intelligence Officer, Central Intelligence Agency
Former Deputy Associate Director for Military Affairs, Central Intelligence Agency
Former Deputy Director of Congressional Affairs, Central Intelligence Agency

James B. Bruce

Former Senior Intelligence Officer, Central Intelligence Agency
Former Senior Intelligence Officer, National Intelligence Council

Considerable work related to Russia

David Cariens

Former Intelligence Analyst, Central Intelligence Agency
50+ Years Working in the Intelligence Community

Janice Cariens

Former Operational Support Officer, Central Intelligence Agency

Paul Kolbe

Former Senior Operations Officer, Central Intelligence Agency
Former Chief, Central Eurasia Division, Central Intelligence Agency

Peter Corsell

Former Analyst, Central Intelligence Agency

Brett Davis

Former Senior Intelligence Officer, Central Intelligence Agency
Former Deputy Director of the Special Activities Center for Expeditionary Operations, CIA

Roger Zane George

Former National Intelligence Officer

Steven L. Hall

Former Senior Intelligence Officer, Central Intelligence Agency
Former Chief of Russian Operations, Central Intelligence Agency

Kent Harrington

Former National Intelligence Officer for East Asia, Central Intelligence Agency
Former Director of Public Affairs, Central Intelligence Agency
Former Chief of Station, Central Intelligence Agency
Former Analyst, Central Intelligence Agency

Don Hepburn

Former Senior National Security Executive

Timothy D. Kilbourn

Former Dean, Sherman Kent School of Intelligence Analysis, Central Intelligence Agency
Former PDB Briefer to President George W. Bush, Central Intelligence Agency

Ron Marks

Former Officer, Central Intelligence Agency
Twice former staff of the Republican Majority Leader

Jonna Hiestand Mendez
Technical Operations Officer, Central Intelligence Agency

Emile Nakhleh
Former Director of the Political Islam Strategic Analysis Program, Central Intelligence Agency
Former Senior Intelligence Analyst, Central Intelligence Agency

Gerald A. O'Shea
Senior Operations Officer, Central Intelligence Agency
Served four tours as Chief of Station, Central Intelligence Agency

David Priess
Former Analyst and Manager, Central Intelligence Agency
Former PDB Briefer, Central Intelligence Agency

Pam Purcilly
Former Deputy Director of Analysis, Central Intelligence Agency
Former Director of the Office of Russian and European Analysis, Central Intelligence Agency
Former PDB Briefer to President George W. Bush, Central Intelligence Agency

Marc Polymeropoulos
Former Senior Operations Officer, Central Intelligence Agency
Former Acting Chief of Operations for Europe and Eurasia, Central Intelligence Agency

Chris Savos
Former Senior Intelligence Officer, Central Intelligence Officer

Nick Shapiro
Former Deputy Chief of Staff and Senior Advisor to the Director, Central Intelligence Agency

John Sipher
Former Senior Operations Officer, Central Intelligence Agency
Former Deputy Chief of Russian Operations, Central Intelligence Agency

Stephen Slick
Former Senior Director for Intelligence Programs, National Security Council
Former Senior Operations Office, Central Intelligence Agency

Cynthia Strand
Former Deputy Assistant Director for Global Issues, Central Intelligence Agency

Greg Tarbell

Former Deputy Executive Director, Central Intelligence Agency

Former Analyst of the Soviet Union and Russia, Central Intelligence Agency

David Terry

Former Chairman of the National Intelligence Collection Board

Former Chief of the PDB, Central Intelligence Agency

Former PDB Briefer to Vice President Dick Cheney, Central Intelligence Agency

Greg Treverton

Former Chair, National Intelligence Council

John Tullius

Former Senior Intelligence Officer, Central Intelligence Agency

David A. Vanell

Former Senior Operations Officer, Central Intelligence Agency

Winston Wiley

Former Director of Analysis, Central Intelligence Agency

Former Chief, Counterterrorism Center, Central Intelligence Agency

Kristin Wood

Former Senior Intelligence Officer, Central Intelligence Agency

Former PDB Briefer, Central Intelligence Agency

In addition, nine additional former IC officers who cannot be named publicly also support the arguments in this letter.



December 22, 2022

Via eFOIPA Portal

U.S. Department of Homeland Security
Privacy Office, Mail Stop 0655
2707 Martin Luther King Jr. Ave. SE
Washington, DC 20528

Freedom of Information Act Request: Hunter Biden Laptop/IC Corruption

Dear FOIA Officer:

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 distribute that work to a national audience through traditional and social media platforms. AFL's email list contains over 38,000 unique addresses, our Twitter page has approximately 47,300 followers, the Twitter page of our Founder and President has nearly 362,000 followers, our Facebook page has 102,000 followers, and we have another approximately 31,500 followers on GETTR.

I. Background

A. Legal framework

50 U.S.C. Subchapter III is titled "Accountability for Intelligence Activities." 50 U.S.C. § 3092 requires the U.S. intelligence community, including the FBI, to keep relevant congressional intelligence committees fully and currently informed of all intelligence or counterintelligence activities "engaged in by, or are carried out for or on behalf of, any department, agency, or entity of the United States Government." 50 U.S.C. § 3093(f) expressly prohibits the U.S. intelligence community, including the FBI, from engaging in covert action "intended to influence United States political processes, public opinion, policies, or media."

It appears that the FBI violated 50 U.S.C. § 3902 by failing to notify Congress of the Bureau’s domestic intelligence operation to influence U.S. political process, public opinion, policies, or media by discrediting and/or suppressing the evidence of corruption contained on Hunter Biden’s laptop as “Russian disinformation.” Although there is some ambiguity in the statutory text,¹ it also appears that the Hunter Biden operation, like the 2016 Russia collusion hoax before it,² violated 50 U.S.C. § 3903(f)’s prohibition on “covert action” aimed at affecting American elections.

B. The partisan origins of the claim that Hunter Biden’s laptop was “Russian disinformation”

On December 9, 2019, the FBI issued a subpoena for and took possession of Hunter Biden’s laptop.³ The hard drive contained emails, documents, and other evidence that then-former Vice President Joe Biden and his family had, for years, been running a political influence-peddling operation. Money flowed to the Biden family from, *inter alia*, the People’s Republic of China, Russia, and Ukraine.⁴ The evidence is that the FBI was engaged in a criminal investigation of Hunter Biden for money laundering at that time.⁵

On February 5, 2020, the Washington Post reported that Sen. Chuck Grassley and Sen. Ron Johnson were reviewing potential conflicts of interest posed by the business activities of Hunter Biden and his associates during the Obama administration,

¹ “Covert action” means an “activity or activities of the United States Government to influence political, economic, or military conditions abroad, where it is intended that the role of the United States Government will not be apparent or acknowledged publicly.” 50 U.S.C. § 3093(e)(1). Section 3093(f) provides: “No covert action may be conducted which is intended to influence United States political processes, public opinion, policies, or media.” Read narrowly, § 3903 thus seems to prohibit only “covert actions” overseas that are intended to influence U.S. elections, public opinion, policies, or media. However, it is a “fundamental canon of statutory construction that the words of a statute must be read in their context and with a view to their place in the overall statutory scheme” and hornbook law that statutes must be read symmetrically and coherently as a harmonious whole. *Food & Drug Admin. v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120, 133 (2000) (citations omitted). To contend that Congress would prohibit the FBI from engaging in a *foreign* covert action to affect U.S. elections but allow the FBI to engage in a *domestic* covert action for the same purpose is to upend Subchapter III’s statutory purpose and scheme.

² Even under a narrow reading, the FBI’s Russia collusion hoax violated 50 U.S.C. § 3093(f). See e.g., *United States v. Michael A. Sussmann*, ECF No. 1, No.1:21-cr-00582 (D.D.C. Sept. 16, 2021); *United States v. Igor Y. Danchenko*, ECF No. 1, No. 1:21-CR-245 (E.D. Va. Nov. 3, 2021); J. Peter Zane, *Why the Russiagate Scandal Outranks the Rest*, Real Clear Politics (Dec. 8, 2021), <https://bit.ly/3FOHYLh>; Lee Smith, “Here Comes the Limited Hangout”, Tablet (Dec. 2, 2021), <https://bit.ly/3Purpsj>; Jonathon Turley, “A Means of Distracting the Public”: Brennan Briefed Obama on Clinton “Plan” to Tie Trump to Russia, Res Ipsa Loquitur (Oct. 7, 2020), <https://bit.ly/3FVGSi1>; Matt Taibbi, *It’s official: Russiagate is this generation’s WMD, The Iraq war faceplant damaged the reputation of the press. Russiagate just destroyed it*, TK News by Matt Taibbi (Mar. 23, 2019), <http://bit.ly/3FSMMAc>.

³ Michael Shellenberger, *Twitter Files: Part 7* no. 4 (Dec. 19, 2022), <bit.ly/3W18anx>.

⁴ *Id.* at no. 11.

⁵ Ian Schwartz, *James Rosen: FBI Has An Active Criminal Investigation Into Hunter Biden For Money Laundering*, RealClear Politics (Oct. 29, 2020), <https://bit.ly/3PI6baq>.

particularly with respect to the Biden family’s business activities in Ukraine and China.⁶ As part of that investigation, Senate staff requested Obama administration records from the National Archives, including presidential records held by former President Obama. On March 13, 2020, an Obama representative responded by alleging that the purpose of the records request was to “give credence to a Russian disinformation campaign.”⁷ Also in March 2020, the FBI and relevant members of the Intelligence Community briefed the Senate investigators and “provided assurances that there was no reason that our committees should not continue their investigation.”⁸ The FBI did not inform the Senate investigators that it had possession of the Biden laptop.

On May 20, 2020, the Senate Homeland Security and Governmental Affairs Committee voted to subpoena a lobbying firm that worked with Burisma, a Ukrainian company that paid Hunter Biden to serve on its board. Opposing the subpoena, Democrats said that the Senate investigation into Biden and his son would aid Russia’s disinformation campaign ahead of the November election.⁹

B. Building the foundation for partisan covert action to protect Joe Biden in the 2020 Presidential election

On or about June 15, 2020, former FBI general counsel James Baker, a central figure in the Russia collusion hoax, was named Twitter’s Deputy General Counsel.¹⁰ According to the former Director of National Intelligence:

Jim Baker is the person who was involved in writing an exoneration memo for Hillary Clinton, having classified information on her server before the FBI ever interviewed her. He’s the person who hand-carried information from Hillary Clinton’s campaign lawyer, Michael Sussmann, into the FBI, false information about a relationship between the Trump campaign and the Russian Alfa Bank. It continued on with him trying to invoke the 25th Amendment to remove Donald Trump after Donald Trump fired Jim Comey. He was involved in the leak investigation involving Jim Comey that was the subject of the FBI inspector general [investigation].¹¹

⁶ Colby Itkowitz, *GOP senators request travel documents in Hunter Biden investigation*, The Washington Post (Feb. 2, 2020), <https://bit.ly/3YEvzlo>.

⁷ Emma Loop, *Obama Privately Blasted A Republican Investigation Into Joe Biden And Ukraine, Calling It An Effort To Boost “Russian Disinformation”*, BuzzFeed (May 5, 2020), <https://bit.ly/3hLDnRV>.

⁸ *Letter from Sen. Charles E. Grassley and Sen. Ron Johnson to Ms. Nikki Floris and Mr. Brandley Benavides* at p.2, n.7 (Aug. 25, 2022), <https://bit.ly/3GaIJj5>.

⁹ RFE/RL, *U.S. Senate Committee Issues Subpoena In Probe Of Hunter Biden’s Ukraine Ties*, RadioFreeEurope/RadioLiberty (May 21, 2020), <https://bit.ly/3jlr76n>.

¹⁰ Thornton McEnery, Jaclyn Hendricks, and Emily Jacobs, *Twitter hires former FBI lawyer James Baker to join legal team*, New York Post (June 16, 2020), <https://bit.ly/3YRD2hk>.

¹¹ Jessica Chasmar, *Ratcliffe: No ‘coincidence’ Jim Baker got top Twitter job after pushing Russian collusion narrative*, Fox News (Dec. 12, 2022), <https://bit.ly/3jm8rrV>.

Baker was one of many former FBI employees working at Twitter, including Dawn Burton, the former deputy chief of staff to FBI head James Comey, who was responsible for initiating the Russia collusion hoax investigation to hamstring Donald Trump. Burton joined Twitter in 2019 as director of strategy.¹²

On July 13, 2020, then-Minority Leader Schumer, Sen. Mark Warner, Speaker Pelosi, and Rep. Adam Schiff sent a letter with a classified attachment to the FBI claiming that Congress was the subject of a Russian disinformation campaign. The classified attachment included unclassified elements that, among other things, attempted – and failed – to tie the Senate investigation into the Biden family’s financial deals to Russian disinformation. Those elements were then leaked to the press.¹³

On July 15, 2020, FBI Supervisory Special Agent Elvis M. Chan offered Twitter temporary security clearances “30 days out from the election.”

On July 16, 2020, then-Ranking Member Peters and then-Ranking Member Wyden requested a briefing from the FBI’s Foreign Influence Task Force on matters purportedly relating to the Biden investigation.

On July 23, 2020, Politico published an article alleging a “foreign disinformation plot to damage former vice president Joe Biden” based on “a farcical, long-debunked, hardcore right-wing conspiracy theory” of Biden family corruption. According to Politico, Democrat concerns were triggered by the prospect of “foreign interference in the 2020 race and fear of *another Kremlin-led effort to boost Trump’s reelection prospects.*” (Emphasis added.)¹⁴ This article regurgitated information leaked by the Democrats and as one part of a much broader leftist information effort to use the “Russian disinformation” mantra as a shield to prevent independent inquiries into the Bidens’ foreign entanglements.¹⁵

On August 6, 2020, FBI employees Nikki Floris and Bradley Benavides conducted the subject briefing. It consisted primarily of information known to Senate investigators and certain other information unconnected to the Biden investigation. The briefing did not include a disclosure that the FBI had Hunter Biden’s laptop in its possession despite having it for eight months. At the briefing as well as after, Grassley and Johnson requested relevant records relating to what happened at the briefing, including the 302 or similar summary, the intelligence basis for the briefing, and the

¹² Shellenberger, *supra* at 28-29.

¹³ *Letter from Sen. Charles E. Grassley and Sen. Ron Johnson, supra* n.6

¹⁴ Natasha Bertrand, *Democrats: Packets sent to Trump allies are part of foreign plot to damage Biden*, Politico (July 23, 2020), <https://bit.ly/3j0yfcJ>.

¹⁵ *See, e.g.,* Ryan Goodman and Asha Rangappa, *How Sen. Ron Johnson’s Investigation Became an Enabler of Russian Disinformation: Part I*, Just Security (Aug. 11, 2020), <https://bit.ly/3v9fdDZ>; Asha Rangappa and Ryan Goodman, *Manafort’s Reward: Sen. Ron Johnson and the Ukraine Conspiracy Investigation: Part II*, Just Security (Aug. 24, 2020), <https://bit.ly/3FOnjXl>.

personnel involved in making the decision to brief them. Until today, the FBI has failed to provide the relevant records.¹⁶

According to FBI whistleblowers, FBI Supervisory Intelligence Analyst Brian Auten opened an assessment that was used by an FBI Headquarters (“FBI HQ”) team to improperly discredit negative Hunter Biden information as disinformation. This caused investigative activity to cease at approximately the same time as the August 6 briefing. Based on allegations, verified and verifiable derogatory information on Hunter Biden was falsely labeled by FBI managers as disinformation.¹⁷

On August 7, 2020, Senator Richard Blumenthal published an opinion article in the Washington Post alleging that:

[T]he Homeland Security and Governmental Affairs Committee, is moving ahead with an investigation into presumptive Democratic presidential nominee Joe Biden’s family using documents provided to the senator by the son of a former KGB officer. Johnson’s actions are of such concern to the CIA, according to news reports, that the agency has refused to brief him. Think of it: Congress may become a forum for debunked conspiracy theories peddled by Kremlin proxies. *There is no excuse for perpetuating Russian disinformation in the U.S. Senate...*

(Emphasis added.)¹⁸ Blumenthal, however, lied.

C. Planning the partisan covert action to protect Joe Biden

At all times relevant, the FBI had possession of Hunter Biden’s laptop and knew, or should have known, that it and the information it contained were original and genuine, and not the product of foreign malign action. Nevertheless, it had been feeding social media companies, including Twitter, and others curated information regarding alleged threats to election integrity by “state actors,” reinforcing these corporations’ preexisting ideological antipathy to and bias against then-President Trump and his administration. According to a December 2020 declaration by Twitter’s “Head of Site Integrity”:

[F]ederal law enforcement agencies communicated that they expected “hack-and-leak operations” by state actors might occur in the period shortly before the 2020 presidential election, likely in October. I was told in these meetings that the intelligence community expected that individuals associated with political campaigns would be subject to hacking attacks and that material

¹⁶ Letter from Sen. Charles E. Grassley and Sen. Ron Johnson, *supra* n.6 at 3.

¹⁷ Letter from Sen. Charles E. Grassley to the Hon. Merrick Garland and the Hon. Christopher Wray at 1 (July 25, 2022), <https://bit.ly/3SsmMA6>.

¹⁸ Sen. Richard Blumenthal, *The threat to U.S. elections is real, and frightening. The public has a right to know*, The Washington Post (Aug. 7, 2020), <https://bit.ly/3BCyedy>.

obtained through those hacking attacks would likely be disseminated over social media platforms, including Twitter. These expectations of hack-and-leak operations were discussed throughout 2020. I also learned in these meetings that there were rumors that a hack-and-leak operation would involve Hunter Biden.¹⁹

These warnings, however, were not based on any new intelligence information.²⁰

On August 11, 2020, FBI agent Chan shared information with Twitter regarding a Russian hacking organization called “APT28” through the FBI’s secure, one-way communications channel.²¹ By mid-September 2020, the FBI and Twitter were operating an encrypted messaging network for employee communications.²² On September 15, 2020, Laura Dehmlow from the FBI’s Foreign Influence Task Force and Agent Chan requested permission to provide former FBI General Counsel Baker a classified briefing.²³

On or about September 20, 2020, the “Aspen Digital Hack-and-Dump Working Group” ran a “table-top exercise” titled “The Burisma Leak” for social media platforms and top national security reporters for the New York Times, and the Washington Post. The purpose of the exercise was to game a response to the release of documents demonstrating Biden family corruption, ostensibly by ATP28.²⁴ A part of the Aspen Institute, a leftist foundation led by Democrat party donors and operatives, Aspen Digital’s mission is to “empower[] policy-makers, civic organizations, companies, and the public to be responsible stewards of technology and media in the service of an informed, just, and equitable world” and stopping “Information Disorder.”²⁵

On September 23, 2020, Sen. Charles Grassley and Sen. Ron Johnson issued the Biden report. It was solely based on interviews with former U.S. government officials, Obama administration federal government records, and records from Blue Star Strategies, a Democrat lobbying firm. The report documented that the Biden family was “involved in a vast financial network that connected them to foreign nationals and foreign governments across the globe” and that they were trading on Joe Biden’s

¹⁹ See Declaration of Yoel Roth ¶11, FEC MUR7827 (Dec. 17, 2020), <https://bit.ly/3PGUDUZ>.

²⁰ See Shellenberger, *supra* n.1 at 14-21.

²¹ *Id.* at 23.

²² *Id.* at 32.

²³ *Id.* at 33.

²⁴ *Id.* at 31; Ace of Spades HQ, *The FBI Paid Twitter Three and a Half Million Dollars to “Help” It Censor “Misinformation”* (Dec. 20, 2022) (reproducing full Aspen Digital exercise agenda), <https://bit.ly/3YDxRkN>.

²⁵ Aspen Digital, *Home and Events landing pages* (last accessed Dec. 22, 2022), <https://bit.ly/3HVEbhS>.

government position for their own profit and gain.²⁶ The report further documented that Democrat committee members “misconstrued the facts of this investigation and...smeared it as *a Russian disinformation campaign*.” (Emphasis added.) To that end, the Democrats, especially Senators Peters, Wyden, and Blumenthal, lied about sources, manipulated classified information, and leaked confidential information to Politico and other politically aligned information organs.²⁷

On or before October 13, 2020, the FBI warned Facebook to be on “high alert” relating to a “Russian propaganda dump,” an apparent reference to the Biden laptop, which had been in the FBI’s possession for almost one year.²⁸ Whistleblowers allege that the FBI had done nothing with it then. “After the FBI obtained the Hunter Biden laptop from the Wilmington, DE computer shop, these whistleblowers stated that local FBI leadership told employees, ‘you will not look at that Hunter Biden laptop.’” The whistleblowers further allege that the FBI did not begin to examine the laptop’s contents until after the 2020 presidential election.²⁹

D. Executing the covert action to protect Joe Biden

On October 14, 2020, the New York Post reported strong evidence, in the form of emails from the laptop hard drive, of quid-pro-quo political corruption and influence peddling by then-candidate and former Vice President Joe Biden. The emails demonstrated that in or about April 2014, Hunter Biden, a person without any energy industry background or expertise whatsoever, was given a board seat by a Ukrainian gas company called Burisma. Burisma made \$83,333 payments monthly to Hunter Biden’s company.³⁰ In turn, Hunter Biden introduced then-Vice President Biden to a top Burisma executive. Shortly thereafter, Joe Biden pressured Ukrainian government officials into firing a prosecutor investigating Burisma by threatening to cancel a \$1 billion U.S. loan guarantee.³¹ Rudy Giuliani, former New York City Mayor

²⁶ U.S. Senate Committee on Homeland Security and Governmental Affairs and Committee on Finance, Majority Staff Report, *Hunter Biden, Burisma, and Corruption: The Impact on U.S. Government Policy and Related Concerns* at pp. 4-6, 31-33, 69, 71-79, 83-85 (Sep. 2020) (“Senate Report”), <https://bit.ly/3hxBGYg>.

²⁷ See generally *id.* at 55-64.

²⁸ Joseph A. Wulfsohn, *Mark Zuckerberg tells Joe Rogan FBI warned Facebook of ‘Russian propaganda’ before Hunter Biden laptop story*, Fox News (Aug. 25, 2022), <https://bit.ly/3FWxZ7S>.

²⁹ Brianna Herlihy, *FBI met weekly with Big Tech ahead of the 2020 election, agent testifies*, Fox News (Dec. 3, 2022), <https://fxn.ws/3j6Hatr>; *Letter from Sen. Ron Johnson to the Hon. Michael E. Horowitz* at 2 (Aug. 23, 2022) (cleaned up), <https://bit.ly/3WfIhFk>.

³⁰ Hunter Biden reportedly received \$1.5 million in total. Also, Burisma appears to have paid an additional \$1.5 million to a Hunter Biden business associate, Devon Archer. See Mattathias Schwartz, *The National Archives Wants to Release Hundreds of Pages of Emails about Hunter Biden and Burisma — and the White House Won’t Say Whether It Will Let It Happen*, Insider (Dec. 14, 2022), bit.ly/3PJ5620.

³¹ Emma-Jo Morris and Gabrielle Fonrouge, *Smoking-gun email reveals how Hunter Biden introduced Ukrainian businessman to VP dad*, The New York Post (Oct. 14, 2020), <https://bit.ly/3HUUUpE>.

and U.S. Attorney for the Southern District of New York, supplied the laptop to the newspaper.

Baker, his FBI allies, and Democrat operatives responded immediately. Baker insisted on an internal email that the Hunter Biden laptop evidence was faked and/or hacked,³² and reached out to Mathew Perry in the FBI's Office of General Counsel to coordinate a response.³³ Meanwhile, Democrat-aligned media organs immediately began an effort to discredit the evidence as Russian disinformation, apparently relying on FBI leaks and sources.

On October 15, 2020, the Hill linked Hunter Biden's laptop to an alleged Russian influence campaign to pass misinformation to President Trump. Citing an anonymous source, the Hill reported, "Several senior administration officials, including Attorney General William Barr, FBI Director Christopher Wray and White House counsel Pat Cipollone 'all had common understanding' that Russia was targeting the president's personal lawyer."³⁴ Also on October 15, 2020, NBC reported that "Federal investigators are examining whether emails allegedly describing activities by Joe Biden and his son Hunter and found on a laptop at a Delaware repair shop are linked to a foreign intelligence operation" based on claims made by "two people familiar with the matter"; and that the evidence of Biden corruption was "greeted with widespread skepticism."³⁵

On October 16, 2020, CNN reported, under six bylines, that "US authorities are investigating whether the published emails that purport to detail the business dealings of Joe Biden's son in Ukraine and China are connected to an ongoing Russian disinformation effort targeting the former vice president's campaign, a US official and a congressional source briefed on the matter said." CNN declared that "Giuliani has openly coordinated with a known Russian agent to promote disinformation about the Bidens" and that "The FBI is leading the investigation."³⁶

Also, on October 16, 2020, House Intelligence Committee Chairman Adam Schiff claimed that Hunter Biden's laptop was a Russian disinformation campaign. "We know that this whole smear on Joe Biden comes from the Kremlin," Schiff said, "That's been clear for well over a year now that they've been pushing this false

³² Shellenberger, *supra n.1* at 34-38.

³³ *Id.* at 39.

³⁴ Justine Coleman, *Intelligence officials warned Trump that Giuliani was target of Russian influence campaign: report*, The Hill (Oct. 15, 2020), <https://bit.ly/3WzHaQV>.

³⁵ Ken Dilanian, *Feds examining whether alleged Hunter Biden emails are linked to a foreign intel operation. One email, which has not been confirmed to be authentic, suggested a meeting between Joe Biden and a rep from a Ukraine firm that once paid his son Hunter*, NBC News (Oct. 15, 2020), <https://bit.ly/3BOh5FZ>.

³⁶ Marshall Cohen, Zachary Cohen, Michael Warren, Evan Perez, Alex Marquardt, and Mark Morales, *US authorities investigating if recently published emails are tied to Russian disinformation effort targeting Biden*, CNN (Oct. 16, 2020), <https://bit.ly/3PGVVPT>.

narrative about this vice president and his son. Clearly, the origins of this whole smear are from the Kremlin, and the president is only too happy to have Kremlin help and try to amplify it.”³⁷ At all times relevant, Schiff knew there was no competent evidence to support his claim that Hunter Biden’s laptop, and the evidence of Biden corruption contained on it, were “Russian disinformation.” Notably, Schiff was a key player in the campaign to amplify allegations of Russian collusion by former President Trump. At all times relevant, Schiff knew both that the Russia collusion allegations were false, and that these allegations had been fabricated by the Hillary Clinton campaign and operationalized by its allied intelligence community operatives.

Also on October 16, 2020, a Twitter executive noted “well-timed briefings from Gov’t sources...which would support an assessment that [the laptop is] neither whistleblower or dissident content.”³⁸ These briefings most likely included FBI officials.

On October 19, 2020, The Hill reported that the Director of National Intelligence John Ratcliff said that there was no evidence to support the claim that Hunter Biden’s laptop and e-mails on it were part of a Russian disinformation campaign. According to the DNI, “The intelligence community doesn’t believe that because there is no intelligence that supports that. And we shared no intelligence with Chairman Schiff or any other member of Congress that Hunter Biden’s laptop is part of some Russian disinformation campaign.”³⁹

Also on October 19, 2020, Politico released a letter from 51 former intelligence officials, including political partisans John Brennan, Jim Clapper, and Michael Hayden, alleging that “the arrival on the US political scene of emails purportedly belonging to Vice President Biden’s son Hunter, much of it related to his time serving on the Board of the Ukrainian gas company Burisma, has all the classic earmarks of a Russian information operation.” The 51 former intelligence officials further alleged that “For the Russians at this point, with Trump down in the polls, there is incentive for Moscow to pull out the stops to do anything possible to help Trump win and/or to weaken Biden should he win. A ‘laptop op’ fits the bill, as the publication of the emails are clearly designed to discredit Biden.” The officials concluded that “Our view that the Russians are involved in the Hunter Biden email issue” was shared by “*Executive Branch departments and agencies [and] It is high time that Russia stops interfering in our democracy.*” (Emphasis in original.)⁴⁰

³⁷ Adam Shaw, *Adam Schiff claims Hunter Biden email stories come ‘from the Kremlin’*, Fox News (Oct. 17, 2020), <https://bit.ly/3V5Lczg>.

³⁸ *Id.* at 40.

³⁹ Olivia Beavers and Joe Concha, *Ratcliffe, Schiff battle over Biden emails, politicized intelligence*, The Hill (Oct. 19, 2020), <https://bit.ly/3W3OPY1>.

⁴⁰ Clapper, Brennan, et al, *Public Statement on the Hunter Biden Emails* (Oct. 19, 2020), <https://bit.ly/3FPVfnV>.

This letter had a significant impact on the 2020 election. It was repeatedly cited by Democrat operatives to discredit the evidence of Biden’s political corruption. Also, it was used by Democrat-aligned media organs to suppress the evidence from Hunter Biden’s laptop on the grounds that it was hacked or faked Russian disinformation.

E. The covert operation to protect Joe Biden achieved its objective

On March 16, 2022, the New York Times quietly admitted that the Hunter Biden laptop was genuine and that its contents were authentic.⁴¹ This admission came more than two years and three months after the FBI took possession of Hunter Biden’s laptop. Regardless, the evidence is clear that the FBI’s partisan covert action to protect Joe Biden, in collusion with Democrat politicians and operatives, and their allied social and other media organs,⁴² achieved its objective. Nearly four out of five Americans, or 79 percent, believe that had there been “truthful” coverage of the Hunter Biden laptop, it would have changed the outcome of the 2020 presidential election.⁴³

II. Records Requested

- A. All emails to or from John Brennan. The time frames for this item are September 1, 2020, to November 1, 2020, and March 23, 2022, to the date of processing.
- B. All records of, mentioning, or regarding the “Public Statement on the Hunter Biden Emails” dated October 19, 2020, that is available at <https://www.politico.com/f/?id=00000175-4393-d7aa-af77-579f9b330000> and attached as Exhibit A.
- C. All records of or regarding the processing of the above items.

III. Custodians

- A. All persons assigned to, working on, or working with CISA’s “MDM team”
- B. Robert Silvers
- C. Kelli Ann Burriesci
- D. Marie Chalkley

⁴¹ Katie Benner, Kenneth P. Vogel and Michael S. Schmidt, *Hunter Biden Paid Tax Bill, but Broad Federal Investigation Continues*, The New York Times (Mar. 16, 2022), <https://bit.ly/3PuwUhf>.

⁴² Nick Nolte, *14 Media Outlets that Lied About Hunter Biden’s Laptop Scandal Being Russian Disinformation*, Breitbart (Dec. 10, 2022), <https://bit.ly/3WE0MUc>.

⁴³ Bruce Golding, *79% say ‘truthful’ coverage of Hunter Biden’s Laptop would have changed 2020 election*, The New York Post (Aug. 26, 2022), <https://bit.ly/3Vm6SaC>; see also Jerry Dunleavy, *Barr says Hunter Biden Russian disinformation claims ‘probably affected’ election outcome*, The Washington Examiner (Mar. 22, 2022), <https://bit.ly/3jqg00l>.

- E. Drew Kuepper
- F. Serena Hoy
- G. Robert Baschall
- H. David Cloe
- I. Samantha Vinograd
- J. Lucian Sikorskyj
- K. Thomas McDermott
- L. Nina Jankowicz

IV. Fee Waiver Request

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

V. Processing and Production

Processing should occur in strict compliance with the processing guidance in the Attorney General's Memorandum on Freedom of Information Act Guidelines. If you have any questions about our request or believe further discussions regarding search and processing would facilitate a more efficient production of records of interest to AFL, then please contact me at FOIA@aflegal.org. If AFL's request for a fee waiver is not granted in full, please contact us immediately upon making that determination.

To accelerate your 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 to America First Legal Foundation, 611 Pennsylvania Ave SE #231, Washington, DC 20003.

Thank you in advance for your cooperation.

Sincerely,

/s/ Reed D. Rubinstein
America First Legal Foundation

EXHIBIT A

Public Statement on the Hunter Biden Emails

October 19, 2020

We are all individuals who devoted significant portions of our lives to national security. Some of us served in senior positions in policy departments and agencies, and some of us served in senior positions in the Intelligence Community. Some of us were political appointees, and some were career officials. Many of us worked for presidents of both political parties.

We are all also individuals who see Russia as one of our nation's primary adversaries. All of us have an understanding of the wide range of Russian overt and covert activities that undermine US national security, with some of us knowing Russian behavior intimately, as we worked to defend our nation against it for a career. A few of us worked against Russian information operations in the United States in the last several years.

Perhaps most important, each of us believes deeply that American citizens should determine the outcome of elections, not foreign governments. All of us agree with the founding fathers' concern about the damage that foreign interference in our politics can do to our democracy.

It is for all these reasons that we write to say that the arrival on the US political scene of emails purportedly belonging to Vice President Biden's son Hunter, much of it related to his time serving on the Board of the Ukrainian gas company Burisma, has all the classic earmarks of a Russian information operation.

We want to emphasize that we do not know if the emails, provided to the New York Post by President Trump's personal attorney Rudy Giuliani, are genuine or not and that we do not have evidence of Russian involvement -- just that our experience makes us deeply suspicious that the Russian government played a significant role in this case.

If we are right, this is Russia trying to influence how Americans vote in this election, and we believe strongly that Americans need to be aware of this.

There are a number of factors that make us suspicious of Russian involvement.

Such an operation would be consistent with Russian objectives, as outlined publicly and recently by the Intelligence Community, to create political chaos in the United States and to deepen political divisions here but also to undermine the candidacy of former Vice President Biden and thereby help the candidacy of President Trump. For the Russians at this point, with Trump down in the polls, there is incentive for Moscow to pull out the stops to do anything possible to help Trump win and/or to weaken Biden should he win. A "laptop op" fits the bill, as the publication of the emails are clearly designed to discredit Biden.

Such an operation would be consistent with some of the key methods Russia has used in its now multi-year operation to interfere in our democracy – the hacking (via cyber operations) and the dumping of accurate information or the distribution of inaccurate or misinformation. Russia did both of these during the 2016 presidential election – judgments shared by the US Intelligence Community, the investigation into Russian activities by Special Counsel Robert Mueller, and the entirety (all Republicans and Democrats) on the current Senate Intelligence Committee.

Such an operation is also consistent with several data points. The Russians, according to media reports and cybersecurity experts, targeted Burisma late last year for cyber collection and gained access to its emails. And Ukrainian politician and businessman Adriy Derkach, identified and sanctioned by the US Treasury Department for being a 10-year Russian agent interfering in the 2020 election, passed purported materials on Burisma and Hunter Biden to Giuliani.

Our view that the Russians are involved in the Hunter Biden email issue is consistent with two other significant data points as well. According to the Washington Post, citing four sources, “U.S. intelligence agencies warned the White House last year that Giuliani was the target of an influence operation by Russian intelligence.”

In addition, media reports say that the FBI has now opened an investigation into Russian involvement in this case. According to USA Today, “...federal authorities are investigating whether the material supplied to the New York Post by Rudy Giuliani...is part of a smoke bomb of disinformation pushed by Russia.”

We do not know whether these press reports are accurate, but they do suggest concern within Executive Branch departments and agencies that mirrors ours. It is high time that Russia stops interfering in our democracy.

Signed by,

Jim Clapper
Former Director of National Intelligence
Former Under Secretary of Defense for Intelligence
Former Director of the National Geospatial Intelligence Agency
Former Director of the Defense Intelligence Agency

Mike Hayden
Former Director, Central Intelligence Agency
Former Director, National Security Agency
Former Principal Deputy Director of National Intelligence

Leon Panetta

Former Director, Central Intelligence Agency
Former Secretary of Defense

John Brennan
Former Director, Central Intelligence Agency
Former White House Homeland Security and Counterterrorism Advisor
Former Director, Terrorism Threat Integration Center
Former Analyst and Operations Officer, Central Intelligence Agency

Thomas Finger
Former Deputy Director of National Intelligence for Analysis
Former Assistant Secretary for Intelligence and Research, Department of State
Former Chair, National Intelligence Council

Rick Ledgett
Former Deputy Director, National Security Agency

John McLaughlin
Former Acting Director, Central Intelligence Agency
Former Deputy Director, Central Intelligence Agency
Former Director of Analysis, Central Intelligence Agency
Former Director, Slavic and Eurasian Analysis, Central Intelligence Agency

Michael Morell
Former Acting Director, Central Intelligence Agency
Former Deputy Director, Central Intelligence Agency
Former Director of Analysis, Central Intelligence Agency

Mike Vickers
Former Under Secretary of Defense for Intelligence
Former Operations Officer, Central Intelligence Agency

Doug Wise
Former Deputy Director, Defense Intelligence Agency
Former Senior CIA Operations Officer

Nick Rasmussen
Former Director, National Counterterrorism Center

Russ Travers
Former Acting Director, National Counterterrorism Center
Former Deputy Director, National Counterterrorism Center
Former Analyst of the Soviet Union and Russia, Defense Intelligence Agency

Andy Liepman

Former Deputy Director, National Counterterrorism Center
Former Senior Intelligence Officer, Central Intelligence Agency

John Moseman

Former Chief of Staff, Central Intelligence Agency
Former Director of Congressional Affairs, Central Intelligence Agency
Former Minority Staff Director, Senate Select Committee on Intelligence

Larry Pfeiffer

Former Chief of Staff, Central Intelligence Agency
Former Director, White House Situation Room

Jeremy Bash

Former Chief of Staff, Central Intelligence Agency
Former Chief of Staff, Department of Defense
Former Chief Counsel, House Permanent Select Committee on Intelligence

Rodney Snyder

Former Chief of Staff, Central Intelligence Agency
Former Director of Intelligence Programs, National Security Council
Chief of Station, Central Intelligence Agency

Glenn Gerstell

Former General Counsel, National Security Agency

David B. Buckley

Former Inspector General, Central Intelligence Agency
Former Democratic Staff Director, House Permanent Select Committee on Intelligence
Former Counterespionage Case Officer, United States Air Force

Nada Bakos

Former Analyst and Targeting Officer, Central Intelligence Agency

Patty Brandmaier

Former Senior Intelligence Officer, Central Intelligence Agency
Former Deputy Associate Director for Military Affairs, Central Intelligence Agency
Former Deputy Director of Congressional Affairs, Central Intelligence Agency

James B. Bruce

Former Senior Intelligence Officer, Central Intelligence Agency
Former Senior Intelligence Officer, National Intelligence Council

Considerable work related to Russia

David Cariens

Former Intelligence Analyst, Central Intelligence Agency
50+ Years Working in the Intelligence Community

Janice Cariens

Former Operational Support Officer, Central Intelligence Agency

Paul Kolbe

Former Senior Operations Officer, Central Intelligence Agency
Former Chief, Central Eurasia Division, Central Intelligence Agency

Peter Corsell

Former Analyst, Central Intelligence Agency

Brett Davis

Former Senior Intelligence Officer, Central Intelligence Agency
Former Deputy Director of the Special Activities Center for Expeditionary Operations, CIA

Roger Zane George

Former National Intelligence Officer

Steven L. Hall

Former Senior Intelligence Officer, Central Intelligence Agency
Former Chief of Russian Operations, Central Intelligence Agency

Kent Harrington

Former National Intelligence Officer for East Asia, Central Intelligence Agency
Former Director of Public Affairs, Central Intelligence Agency
Former Chief of Station, Central Intelligence Agency
Former Analyst, Central Intelligence Agency

Don Hepburn

Former Senior National Security Executive

Timothy D. Kilbourn

Former Dean, Sherman Kent School of Intelligence Analysis, Central Intelligence Agency
Former PDB Briefer to President George W. Bush, Central Intelligence Agency

Ron Marks

Former Officer, Central Intelligence Agency
Twice former staff of the Republican Majority Leader

Jonna Hiestand Mendez
Technical Operations Officer, Central Intelligence Agency

Emile Nakhleh
Former Director of the Political Islam Strategic Analysis Program, Central Intelligence Agency
Former Senior Intelligence Analyst, Central Intelligence Agency

Gerald A. O'Shea
Senior Operations Officer, Central Intelligence Agency
Served four tours as Chief of Station, Central Intelligence Agency

David Priess
Former Analyst and Manager, Central Intelligence Agency
Former PDB Briefer, Central Intelligence Agency

Pam Purcilly
Former Deputy Director of Analysis, Central Intelligence Agency
Former Director of the Office of Russian and European Analysis, Central Intelligence Agency
Former PDB Briefer to President George W. Bush, Central Intelligence Agency

Marc Polymeropoulos
Former Senior Operations Officer, Central Intelligence Agency
Former Acting Chief of Operations for Europe and Eurasia, Central Intelligence Agency

Chris Savos
Former Senior Intelligence Officer, Central Intelligence Officer

Nick Shapiro
Former Deputy Chief of Staff and Senior Advisor to the Director, Central Intelligence Agency

John Sipher
Former Senior Operations Officer, Central Intelligence Agency
Former Deputy Chief of Russian Operations, Central Intelligence Agency

Stephen Slick
Former Senior Director for Intelligence Programs, National Security Council
Former Senior Operations Office, Central Intelligence Agency

Cynthia Strand
Former Deputy Assistant Director for Global Issues, Central Intelligence Agency

Greg Tarbell

Former Deputy Executive Director, Central Intelligence Agency

Former Analyst of the Soviet Union and Russia, Central Intelligence Agency

David Terry

Former Chairman of the National Intelligence Collection Board

Former Chief of the PDB, Central Intelligence Agency

Former PDB Briefer to Vice President Dick Cheney, Central Intelligence Agency

Greg Treverton

Former Chair, National Intelligence Council

John Tullius

Former Senior Intelligence Officer, Central Intelligence Agency

David A. Vanell

Former Senior Operations Officer, Central Intelligence Agency

Winston Wiley

Former Director of Analysis, Central Intelligence Agency

Former Chief, Counterterrorism Center, Central Intelligence Agency

Kristin Wood

Former Senior Intelligence Officer, Central Intelligence Agency

Former PDB Briefer, Central Intelligence Agency

In addition, nine additional former IC officers who cannot be named publicly also support the arguments in this letter.



December 22, 2022

Via eFOIPA Portal

Cybersecurity and Infrastructure Security Agency
Department of Homeland Security
Mail Stop 0380
2707 Martin Luther King Jr. Ave SE
Washington, DC 20528

Freedom of Information Act Request: Hunter Biden Laptop/IC Corruption

Dear FOIA Officer:

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 distribute that work to a national audience through traditional and social media platforms. AFL's email list contains over 38,000 unique addresses, our Twitter page has approximately 47,300 followers, the Twitter page of our Founder and President has nearly 362,000 followers, our Facebook page has 102,000 followers, and we have another approximately 31,500 followers on GETTR.

I. Background

A. Legal framework

50 U.S.C. Subchapter III is titled "Accountability for Intelligence Activities." 50 U.S.C. § 3092 requires the U.S. intelligence community, including the FBI, to keep relevant congressional intelligence committees fully and currently informed of all intelligence or counterintelligence activities "engaged in by, or are carried out for or on behalf of, any department, agency, or entity of the United States Government." 50 U.S.C. § 3093(f) expressly prohibits the U.S. intelligence community, including the FBI, from engaging in covert action "intended to influence United States political processes, public opinion, policies, or media."

It appears that the FBI violated 50 U.S.C. § 3902 by failing to notify Congress of the Bureau’s domestic intelligence operation to influence U.S. political process, public opinion, policies, or media by discrediting and/or suppressing the evidence of corruption contained on Hunter Biden’s laptop as “Russian disinformation.” Although there is some ambiguity in the statutory text,¹ it also appears that the Hunter Biden operation, like the 2016 Russia collusion hoax before it,² violated 50 U.S.C. § 3903(f)’s prohibition on “covert action” aimed at affecting American elections.

B. The partisan origins of the claim that Hunter Biden’s laptop was “Russian disinformation”

On December 9, 2019, the FBI issued a subpoena for and took possession of Hunter Biden’s laptop.³ The hard drive contained emails, documents, and other evidence that then-former Vice President Joe Biden and his family had, for years, been running a political influence-peddling operation. Money flowed to the Biden family from, *inter alia*, the People’s Republic of China, Russia, and Ukraine.⁴ The evidence is that the FBI was engaged in a criminal investigation of Hunter Biden for money laundering at that time.⁵

On February 5, 2020, the Washington Post reported that Sen. Chuck Grassley and Sen. Ron Johnson were reviewing potential conflicts of interest posed by the business activities of Hunter Biden and his associates during the Obama administration,

¹ “Covert action” means an “activity or activities of the United States Government to influence political, economic, or military conditions abroad, where it is intended that the role of the United States Government will not be apparent or acknowledged publicly.” 50 U.S.C. § 3093(e)(1). Section 3093(f) provides: “No covert action may be conducted which is intended to influence United States political processes, public opinion, policies, or media.” Read narrowly, § 3903 thus seems to prohibit only “covert actions” overseas that are intended to influence U.S. elections, public opinion, policies, or media. However, it is a “fundamental canon of statutory construction that the words of a statute must be read in their context and with a view to their place in the overall statutory scheme” and hornbook law that statutes must be read symmetrically and coherently as a harmonious whole. *Food & Drug Admin. v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120, 133 (2000) (citations omitted). To contend that Congress would prohibit the FBI from engaging in a *foreign* covert action to affect U.S. elections but allow the FBI to engage in a *domestic* covert action for the same purpose is to upend Subchapter III’s statutory purpose and scheme.

² Even under a narrow reading, the FBI’s Russia collusion hoax violated 50 U.S.C. § 3093(f). See e.g., *United States v. Michael A. Sussmann*, ECF No. 1, No.1:21-cr-00582 (D.D.C. Sept. 16, 2021); *United States v. Igor Y. Danchenko*, ECF No. 1, No. 1:21-CR-245 (E.D. Va. Nov. 3, 2021); J. Peter Zane, *Why the Russiagate Scandal Outranks the Rest*, Real Clear Politics (Dec. 8, 2021), <https://bit.ly/3FOHYLh>; Lee Smith, “Here Comes the Limited Hangout”, Tablet (Dec. 2, 2021), <https://bit.ly/3Purpsj>; Jonathon Turley, “A Means of Distracting the Public”: Brennan Briefed Obama on Clinton “Plan” to Tie Trump to Russia, Res Ipsa Loquitur (Oct. 7, 2020), <https://bit.ly/3FVGSi1>; Matt Taibbi, *It’s official: Russiagate is this generation’s WMD, The Iraq war faceplant damaged the reputation of the press. Russiagate just destroyed it*, TK News by Matt Taibbi (Mar. 23, 2019), <http://bit.ly/3FSMMAc>.

³ Michael Shellenberger, *Twitter Files: Part 7* no. 4 (Dec. 19, 2022), bit.ly/3W18anx.

⁴ *Id.* at no. 11.

⁵ Ian Schwartz, *James Rosen: FBI Has An Active Criminal Investigation Into Hunter Biden For Money Laundering*, RealClear Politics (Oct. 29, 2020), <https://bit.ly/3PI6baq>.

particularly with respect to the Biden family’s business activities in Ukraine and China.⁶ As part of that investigation, Senate staff requested Obama administration records from the National Archives, including presidential records held by former President Obama. On March 13, 2020, an Obama representative responded by alleging that the purpose of the records request was to “give credence to a Russian disinformation campaign.”⁷ Also in March 2020, the FBI and relevant members of the Intelligence Community briefed the Senate investigators and “provided assurances that there was no reason that our committees should not continue their investigation.”⁸ The FBI did not inform the Senate investigators that it had possession of the Biden laptop.

On May 20, 2020, the Senate Homeland Security and Governmental Affairs Committee voted to subpoena a lobbying firm that worked with Burisma, a Ukrainian company that paid Hunter Biden to serve on its board. Opposing the subpoena, Democrats said that the Senate investigation into Biden and his son would aid Russia’s disinformation campaign ahead of the November election.⁹

B. Building the foundation for partisan covert action to protect Joe Biden in the 2020 Presidential election

On or about June 15, 2020, former FBI general counsel James Baker, a central figure in the Russia collusion hoax, was named Twitter’s Deputy General Counsel.¹⁰ According to the former Director of National Intelligence:

Jim Baker is the person who was involved in writing an exoneration memo for Hillary Clinton, having classified information on her server before the FBI ever interviewed her. He’s the person who hand-carried information from Hillary Clinton’s campaign lawyer, Michael Sussmann, into the FBI, false information about a relationship between the Trump campaign and the Russian Alfa Bank. It continued on with him trying to invoke the 25th Amendment to remove Donald Trump after Donald Trump fired Jim Comey. He was involved in the leak investigation involving Jim Comey that was the subject of the FBI inspector general [investigation].¹¹

⁶ Colby Itkowitz, *GOP senators request travel documents in Hunter Biden investigation*, The Washington Post (Feb. 2, 2020), <https://bit.ly/3YEvzlo>.

⁷ Emma Loop, *Obama Privately Blasted A Republican Investigation Into Joe Biden And Ukraine, Calling It An Effort To Boost “Russian Disinformation”*, BuzzFeed (May 5, 2020), <https://bit.ly/3hLDnRV>.

⁸ *Letter from Sen. Charles E. Grassley and Sen. Ron Johnson to Ms. Nikki Floris and Mr. Brandley Benavides* at p.2, n.7 (Aug. 25, 2022), <https://bit.ly/3GaIJj5>.

⁹ RFE/RL, *U.S. Senate Committee Issues Subpoena In Probe Of Hunter Biden’s Ukraine Ties*, RadioFreeEurope/RadioLiberty (May 21, 2020), <https://bit.ly/3jlR76n>.

¹⁰ Thornton McEnery, Jaclyn Hendricks, and Emily Jacobs, *Twitter hires former FBI lawyer James Baker to join legal team*, New York Post (June 16, 2020), <https://bit.ly/3YRD2hk>.

¹¹ Jessica Chasmar, *Ratcliffe: No ‘coincidence’ Jim Baker got top Twitter job after pushing Russian collusion narrative*, Fox News (Dec. 12, 2022), <https://bit.ly/3jm8rrV>.

Baker was one of many former FBI employees working at Twitter, including Dawn Burton, the former deputy chief of staff to FBI head James Comey, who was responsible for initiating the Russia collusion hoax investigation to hamstring Donald Trump. Burton joined Twitter in 2019 as director of strategy.¹²

On July 13, 2020, then-Minority Leader Schumer, Sen. Mark Warner, Speaker Pelosi, and Rep. Adam Schiff sent a letter with a classified attachment to the FBI claiming that Congress was the subject of a Russian disinformation campaign. The classified attachment included unclassified elements that, among other things, attempted – and failed – to tie the Senate investigation into the Biden family’s financial deals to Russian disinformation. Those elements were then leaked to the press.¹³

On July 15, 2020, FBI Supervisory Special Agent Elvis M. Chan offered Twitter temporary security clearances “30 days out from the election.”

On July 16, 2020, then-Ranking Member Peters and then-Ranking Member Wyden requested a briefing from the FBI’s Foreign Influence Task Force on matters purportedly relating to the Biden investigation.

On July 23, 2020, Politico published an article alleging a “foreign disinformation plot to damage former vice president Joe Biden” based on “a farcical, long-debunked, hardcore right-wing conspiracy theory” of Biden family corruption. According to Politico, Democrat concerns were triggered by the prospect of “foreign interference in the 2020 race and fear of *another Kremlin-led effort to boost Trump’s reelection prospects.*” (Emphasis added.)¹⁴ This article regurgitated information leaked by the Democrats and as one part of a much broader leftist information effort to use the “Russian disinformation” mantra as a shield to prevent independent inquiries into the Bidens’ foreign entanglements.¹⁵

On August 6, 2020, FBI employees Nikki Floris and Bradley Benavides conducted the subject briefing. It consisted primarily of information known to Senate investigators and certain other information unconnected to the Biden investigation. The briefing did not include a disclosure that the FBI had Hunter Biden’s laptop in its possession despite having it for eight months. At the briefing as well as after, Grassley and Johnson requested relevant records relating to what happened at the briefing, including the 302 or similar summary, the intelligence basis for the briefing, and the

¹² Shellenberger, *supra* at 28-29.

¹³ *Letter from Sen. Charles E. Grassley and Sen. Ron Johnson, supra* n.6

¹⁴ Natasha Bertrand, *Democrats: Packets sent to Trump allies are part of foreign plot to damage Biden*, Politico (July 23, 2020), <https://bit.ly/3j0yfcJ>.

¹⁵ *See, e.g.*, Ryan Goodman and Asha Rangappa, *How Sen. Ron Johnson’s Investigation Became an Enabler of Russian Disinformation: Part I*, Just Security (Aug. 11, 2020), <https://bit.ly/3v9fdDZ>; Asha Rangappa and Ryan Goodman, *Manafort’s Reward: Sen. Ron Johnson and the Ukraine Conspiracy Investigation: Part II*, Just Security (Aug. 24, 2020), <https://bit.ly/3FOnjXL>.

personnel involved in making the decision to brief them. Until today, the FBI has failed to provide the relevant records.¹⁶

According to FBI whistleblowers, FBI Supervisory Intelligence Analyst Brian Auten opened an assessment that was used by an FBI Headquarters (“FBI HQ”) team to improperly discredit negative Hunter Biden information as disinformation. This caused investigative activity to cease at approximately the same time as the August 6 briefing. Based on allegations, verified and verifiable derogatory information on Hunter Biden was falsely labeled by FBI managers as disinformation.¹⁷

On August 7, 2020, Senator Richard Blumenthal published an opinion article in the Washington Post alleging that:

[T]he Homeland Security and Governmental Affairs Committee, is moving ahead with an investigation into presumptive Democratic presidential nominee Joe Biden’s family using documents provided to the senator by the son of a former KGB officer. Johnson’s actions are of such concern to the CIA, according to news reports, that the agency has refused to brief him. Think of it: Congress may become a forum for debunked conspiracy theories peddled by Kremlin proxies. *There is no excuse for perpetuating Russian disinformation in the U.S. Senate...*

(Emphasis added.)¹⁸ Blumenthal, however, lied.

C. Planning the partisan covert action to protect Joe Biden

At all times relevant, the FBI had possession of Hunter Biden’s laptop and knew, or should have known, that it and the information it contained were original and genuine, and not the product of foreign malign action. Nevertheless, it had been feeding social media companies, including Twitter, and others curated information regarding alleged threats to election integrity by “state actors,” reinforcing these corporations’ preexisting ideological antipathy to and bias against then-President Trump and his administration. According to a December 2020 declaration by Twitter’s “Head of Site Integrity”:

[F]ederal law enforcement agencies communicated that they expected “hack-and-leak operations” by state actors might occur in the period shortly before the 2020 presidential election, likely in October. I was told in these meetings that the intelligence community expected that individuals associated with

¹⁶ Letter from Sen. Charles E. Grassley and Sen. Ron Johnson, *supra* n.6 at 3.

¹⁷ Letter from Sen. Charles E. Grassley to the Hon. Merrick Garland and the Hon. Christopher Wray at 1 (July 25, 2022), <https://bit.ly/3SsmMA6>.

¹⁸ Sen. Richard Blumenthal, *The threat to U.S. elections is real, and frightening. The public has a right to know*, The Washington Post (Aug. 7, 2020), <https://bit.ly/3BCYcdy>.

political campaigns would be subject to hacking attacks and that material obtained through those hacking attacks would likely be disseminated over social media platforms, including Twitter. These expectations of hack-and-lead operations were discussed throughout 2020. I also learned in these meetings that there were rumors that a hack-and-lead operation would involve Hunter Biden.¹⁹

These warnings, however, were not based on any new intelligence information.²⁰

On August 11, 2020, FBI agent Chan shared information with Twitter regarding a Russian hacking organization called “APT28” through the FBI’s secure, one-way communications channel.²¹ By mid-September 2020, the FBI and Twitter were operating an encrypted messaging network for employee communications.²² On September 15, 2020, Laura Dehmlow from the FBI’s Foreign Influence Task Force and Agent Chan requested permission to provide former FBI General Counsel Baker a classified briefing.²³

On or about September 20, 2020, the “Aspen Digital Hack-and-Dump Working Group” ran a “table-top exercise” titled “The Burisma Leak” for social media platforms and top national security reporters for the New York Times, and the Washington Post. The purpose of the exercise was to game a response to the release of documents demonstrating Biden family corruption, ostensibly by ATP28.²⁴ A part of the Aspen Institute, a leftist foundation led by Democrat party donors and operatives, Aspen Digital’s mission is to “empower[] policy-makers, civic organizations, companies, and the public to be responsible stewards of technology and media in the service of an informed, just, and equitable world” and stopping “Information Disorder.”²⁵

On September 23, 2020, Sen. Charles Grassley and Sen. Ron Johnson issued the Biden report. It was solely based on interviews with former U.S. government officials, Obama administration federal government records, and records from Blue Star Strategies, a Democrat lobbying firm. The report documented that the Biden family was “involved in a vast financial network that connected them to foreign nationals and foreign governments across the globe” and that they were trading on Joe Biden’s

¹⁹ See Declaration of Yoel Roth ¶11, FEC MUR7827 (Dec. 17, 2020), <https://bit.ly/3PGUDUZ>.

²⁰ See Shellenberger, *supra* n.1 at 14-21.

²¹ *Id.* at 23.

²² *Id.* at 32.

²³ *Id.* at 33.

²⁴ *Id.* at 31; Ace of Spades HQ, *The FBI Paid Twitter Three and a Half Million Dollars to “Help” It Censor “Misinformation”* (Dec. 20, 2022) (reproducing full Aspen Digital exercise agenda), <https://bit.ly/3YDxRkN>.

²⁵ Aspen Digital, *Home and Events landing pages* (last accessed Dec. 22, 2022), <https://bit.ly/3HVEbhS>.

government position for their own profit and gain.²⁶ The report further documented that Democrat committee members “misconstrued the facts of this investigation and...smeared it as *a Russian disinformation campaign*.” (Emphasis added.) To that end, the Democrats, especially Senators Peters, Wyden, and Blumenthal, lied about sources, manipulated classified information, and leaked confidential information to Politico and other politically aligned information organs.²⁷

On or before October 13, 2020, the FBI warned Facebook to be on “high alert” relating to a “Russian propaganda dump,” an apparent reference to the Biden laptop, which had been in the FBI’s possession for almost one year.²⁸ Whistleblowers allege that the FBI had done nothing with it then. “After the FBI obtained the Hunter Biden laptop from the Wilmington, DE computer shop, these whistleblowers stated that local FBI leadership told employees, ‘you will not look at that Hunter Biden laptop.’” The whistleblowers further allege that the FBI did not begin to examine the laptop’s contents until after the 2020 presidential election.²⁹

D. Executing the covert action to protect Joe Biden

On October 14, 2020, the New York Post reported strong evidence, in the form of emails from the laptop hard drive, of quid-pro-quo political corruption and influence peddling by then-candidate and former Vice President Joe Biden. The emails demonstrated that in or about April 2014, Hunter Biden, a person without any energy industry background or expertise whatsoever, was given a board seat by a Ukrainian gas company called Burisma. Burisma made \$83,333 payments monthly to Hunter Biden’s company.³⁰ In turn, Hunter Biden introduced then-Vice President Biden to a top Burisma executive. Shortly thereafter, Joe Biden pressured Ukrainian government officials into firing a prosecutor investigating Burisma by threatening to cancel a \$1 billion U.S. loan guarantee.³¹ Rudy Giuliani, former New York City Mayor

²⁶ U.S. Senate Committee on Homeland Security and Governmental Affairs and Committee on Finance, Majority Staff Report, *Hunter Biden, Burisma, and Corruption: The Impact on U.S. Government Policy and Related Concerns* at pp. 4-6, 31-33, 69, 71-79, 83-85 (Sep. 2020) (“Senate Report”), <https://bit.ly/3hxBGYg>.

²⁷ See generally *id.* at 55-64.

²⁸ Joseph A. Wulfsohn, *Mark Zuckerberg tells Joe Rogan FBI warned Facebook of ‘Russian propaganda’ before Hunter Biden laptop story*, Fox News (Aug. 25, 2022), <https://bit.ly/3FWxZ7S>.

²⁹ Brianna Herlihy, *FBI met weekly with Big Tech ahead of the 2020 election, agent testifies*, Fox News (Dec. 3, 2022), <https://fxn.ws/3j6Hatr>; *Letter from Sen. Ron Johnson to the Hon. Michael E. Horowitz* at 2 (Aug. 23, 2022) (cleaned up), <https://bit.ly/3WfIhFk>.

³⁰ Hunter Biden reportedly received \$1.5 million in total. Also, Burisma appears to have paid an additional \$1.5 million to a Hunter Biden business associate, Devon Archer. See Mattathias Schwartz, *The National Archives Wants to Release Hundreds of Pages of Emails about Hunter Biden and Burisma — and the White House Won’t Say Whether It Will Let It Happen*, Insider (Dec. 14, 2022), bit.ly/3PJ5620.

³¹ Emma-Jo Morris and Gabrielle Fonrouge, *Smoking-gun email reveals how Hunter Biden introduced Ukrainian businessman to VP dad*, The New York Post (Oct. 14, 2020), <https://bit.ly/3HDUUpE>.

and U.S. Attorney for the Southern District of New York, supplied the laptop to the newspaper.

Baker, his FBI allies, and Democrat operatives responded immediately. Baker insisted on an internal email that the Hunter Biden laptop evidence was faked and/or hacked,³² and reached out to Mathew Perry in the FBI's Office of General Counsel to coordinate a response.³³ Meanwhile, Democrat-aligned media organs immediately began an effort to discredit the evidence as Russian disinformation, apparently relying on FBI leaks and sources.

On October 15, 2020, the Hill linked Hunter Biden's laptop to an alleged Russian influence campaign to pass misinformation to President Trump. Citing an anonymous source, the Hill reported, "Several senior administration officials, including Attorney General William Barr, FBI Director Christopher Wray and White House counsel Pat Cipollone 'all had common understanding' that Russia was targeting the president's personal lawyer."³⁴ Also on October 15, 2020, NBC reported that "Federal investigators are examining whether emails allegedly describing activities by Joe Biden and his son Hunter and found on a laptop at a Delaware repair shop are linked to a foreign intelligence operation" based on claims made by "two people familiar with the matter"; and that the evidence of Biden corruption was "greeted with widespread skepticism."³⁵

On October 16, 2020, CNN reported, under six bylines, that "US authorities are investigating whether the published emails that purport to detail the business dealings of Joe Biden's son in Ukraine and China are connected to an ongoing Russian disinformation effort targeting the former vice president's campaign, a US official and a congressional source briefed on the matter said." CNN declared that "Giuliani has openly coordinated with a known Russian agent to promote disinformation about the Bidens" and that "The FBI is leading the investigation."³⁶

Also, on October 16, 2020, House Intelligence Committee Chairman Adam Schiff claimed that Hunter Biden's laptop was a Russian disinformation campaign. "We know that this whole smear on Joe Biden comes from the Kremlin," Schiff said, "That's been clear for well over a year now that they've been pushing this false

³² Shellenberger, *supra n.1* at 34-38.

³³ *Id.* at 39.

³⁴ Justine Coleman, *Intelligence officials warned Trump that Giuliani was target of Russian influence campaign: report*, The Hill (Oct. 15, 2020), <https://bit.ly/3WzHaQV>.

³⁵ Ken Dilanian, *Feds examining whether alleged Hunter Biden emails are linked to a foreign intel operation. One email, which has not been confirmed to be authentic, suggested a meeting between Joe Biden and a rep from a Ukraine firm that once paid his son Hunter*, NBC News (Oct. 15, 2020), <https://bit.ly/3BOh5FZ>.

³⁶ Marshall Cohen, Zachary Cohen, Michael Warren, Evan Perez, Alex Marquardt, and Mark Morales, *US authorities investigating if recently published emails are tied to Russian disinformation effort targeting Biden*, CNN (Oct. 16, 2020), <https://bit.ly/3PGVVPT>.

narrative about this vice president and his son. Clearly, the origins of this whole smear are from the Kremlin, and the president is only too happy to have Kremlin help and try to amplify it.”³⁷ At all times relevant, Schiff knew there was no competent evidence to support his claim that Hunter Biden’s laptop, and the evidence of Biden corruption contained on it, were “Russian disinformation.” Notably, Schiff was a key player in the campaign to amplify allegations of Russian collusion by former President Trump. At all times relevant, Schiff knew both that the Russia collusion allegations were false, and that these allegations had been fabricated by the Hillary Clinton campaign and operationalized by its allied intelligence community operatives.

Also on October 16, 2020, a Twitter executive noted “well-timed briefings from Gov’t sources...which would support an assessment that [the laptop is] neither whistleblower or dissident content.”³⁸ These briefings most likely included FBI officials.

On October 19, 2020, The Hill reported that the Director of National Intelligence John Ratcliff said that there was no evidence to support the claim that Hunter Biden’s laptop and e-mails on it were part of a Russian disinformation campaign. According to the DNI, “The intelligence community doesn’t believe that because there is no intelligence that supports that. And we shared no intelligence with Chairman Schiff or any other member of Congress that Hunter Biden’s laptop is part of some Russian disinformation campaign.”³⁹

Also on October 19, 2020, Politico released a letter from 51 former intelligence officials, including political partisans John Brennan, Jim Clapper, and Michael Hayden, alleging that “the arrival on the US political scene of emails purportedly belonging to Vice President Biden’s son Hunter, much of it related to his time serving on the Board of the Ukrainian gas company Burisma, has all the classic earmarks of a Russian information operation.” The 51 former intelligence officials further alleged that “For the Russians at this point, with Trump down in the polls, there is incentive for Moscow to pull out the stops to do anything possible to help Trump win and/or to weaken Biden should he win. A ‘laptop op’ fits the bill, as the publication of the emails are clearly designed to discredit Biden.” The officials concluded that “Our view that the Russians are involved in the Hunter Biden email issue” was shared by “*Executive Branch departments and agencies [and] It is high time that Russia stops interfering in our democracy.*” (Emphasis in original.)⁴⁰

³⁷ Adam Shaw, *Adam Schiff claims Hunter Biden email stories come ‘from the Kremlin’*, Fox News (Oct. 17, 2020), <https://bit.ly/3V5Lczg>.

³⁸ *Id.* at 40.

³⁹ Olivia Beavers and Joe Concha, *Ratcliffe, Schiff battle over Biden emails, politicized intelligence*, The Hill (Oct. 19, 2020), <https://bit.ly/3W3OPY1>.

⁴⁰ Clapper, Brennan, et al, *Public Statement on the Hunter Biden Emails* (Oct. 19, 2020), <https://bit.ly/3FPVfnV>.

This letter had a significant impact on the 2020 election. It was repeatedly cited by Democrat operatives to discredit the evidence of Biden’s political corruption. Also, it was used by Democrat-aligned media organs to suppress the evidence from Hunter Biden’s laptop on the grounds that it was hacked or faked Russian disinformation.

E. The covert operation to protect Joe Biden achieved its objective

On March 16, 2022, the New York Times quietly admitted that the Hunter Biden laptop was genuine and that its contents were authentic.⁴¹ This admission came more than two years and three months after the FBI took possession of Hunter Biden’s laptop. Regardless, the evidence is clear that the FBI’s partisan covert action to protect Joe Biden, in collusion with Democrat politicians and operatives, and their allied social and other media organs,⁴² achieved its objective. Nearly four out of five Americans, or 79 percent, believe that had there been “truthful” coverage of the Hunter Biden laptop, it would have changed the outcome of the 2020 presidential election.⁴³

II. Records Requested

- A. All emails to or from John Brennan. The time frames for this item are September 1, 2020, to November 1, 2020, and March 23, 2022, to the date of processing.
- B. All records of, mentioning, or regarding the “Public Statement on the Hunter Biden Emails” dated October 19, 2020, that is available at <https://www.politico.com/f/?id=00000175-4393-d7aa-af77-579f9b330000> and attached as Exhibit A.
- C. All records of or regarding the processing of the above items.

III. Custodians

- A. All persons assigned to, working on, or working through CISA’s “MDM team”
- B. Jen Easterly
- C. Nitin Natarajan

⁴¹ Katie Benner, Kenneth P. Vogel and Michael S. Schmidt, *Hunter Biden Paid Tax Bill, but Broad Federal Investigation Continues*, The New York Times (Mar. 16, 2022), <https://bit.ly/3PuwUHF>.

⁴² Nick Nolte, *14 Media Outlets that Lied About Hunter Biden’s Laptop Scandal Being Russian Disinformation*, Breitbart (Dec. 10, 2022), <https://bit.ly/3WE0MUc>.

⁴³ Bruce Golding, *79% say ‘truthful’ coverage of Hunter Biden’s Laptop would have changed 2020 election*, The New York Post (Aug. 26, 2022), <https://bit.ly/3Vm6SaC>; see also Jerry Dunleavy, *Barr says Hunter Biden Russian disinformation claims ‘probably affected’ election outcome*, The Washington Examiner (Mar. 22, 2022), <https://bit.ly/3jqg00l>.

- D. Brandon Wales
- E. Kiersten E. Todt
- F. Kim Wyman
- G. Christopher Krebs
- H. Matthew Masterson

IV. Fee Waiver Request

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

V. Processing and Production

Processing should occur in strict compliance with the processing guidance in the Attorney General's Memorandum on Freedom of Information Act Guidelines. If you have any questions about our request or believe further discussions regarding search and processing would facilitate a more efficient production of records of interest to AFL, then please contact me at FOIA@aflegal.org. If AFL's request for a fee waiver is not granted in full, please contact us immediately upon making that determination.

To accelerate your 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 to America First Legal Foundation, 611 Pennsylvania Ave SE #231, Washington, DC 20003.

Thank you in advance for your cooperation.

Sincerely,

/s/ Reed D. Rubinstein
America First Legal Foundation

EXHIBIT A

Public Statement on the Hunter Biden Emails

October 19, 2020

We are all individuals who devoted significant portions of our lives to national security. Some of us served in senior positions in policy departments and agencies, and some of us served in senior positions in the Intelligence Community. Some of us were political appointees, and some were career officials. Many of us worked for presidents of both political parties.

We are all also individuals who see Russia as one of our nation's primary adversaries. All of us have an understanding of the wide range of Russian overt and covert activities that undermine US national security, with some of us knowing Russian behavior intimately, as we worked to defend our nation against it for a career. A few of us worked against Russian information operations in the United States in the last several years.

Perhaps most important, each of us believes deeply that American citizens should determine the outcome of elections, not foreign governments. All of us agree with the founding fathers' concern about the damage that foreign interference in our politics can do to our democracy.

It is for all these reasons that we write to say that the arrival on the US political scene of emails purportedly belonging to Vice President Biden's son Hunter, much of it related to his time serving on the Board of the Ukrainian gas company Burisma, has all the classic earmarks of a Russian information operation.

We want to emphasize that we do not know if the emails, provided to the New York Post by President Trump's personal attorney Rudy Giuliani, are genuine or not and that we do not have evidence of Russian involvement -- just that our experience makes us deeply suspicious that the Russian government played a significant role in this case.

If we are right, this is Russia trying to influence how Americans vote in this election, and we believe strongly that Americans need to be aware of this.

There are a number of factors that make us suspicious of Russian involvement.

Such an operation would be consistent with Russian objectives, as outlined publicly and recently by the Intelligence Community, to create political chaos in the United States and to deepen political divisions here but also to undermine the candidacy of former Vice President Biden and thereby help the candidacy of President Trump. For the Russians at this point, with Trump down in the polls, there is incentive for Moscow to pull out the stops to do anything possible to help Trump win and/or to weaken Biden should he win. A "laptop op" fits the bill, as the publication of the emails are clearly designed to discredit Biden.

Such an operation would be consistent with some of the key methods Russia has used in its now multi-year operation to interfere in our democracy – the hacking (via cyber operations) and the dumping of accurate information or the distribution of inaccurate or misinformation. Russia did both of these during the 2016 presidential election – judgments shared by the US Intelligence Community, the investigation into Russian activities by Special Counsel Robert Mueller, and the entirety (all Republicans and Democrats) on the current Senate Intelligence Committee.

Such an operation is also consistent with several data points. The Russians, according to media reports and cybersecurity experts, targeted Burisma late last year for cyber collection and gained access to its emails. And Ukrainian politician and businessman Adriy Derkach, identified and sanctioned by the US Treasury Department for being a 10-year Russian agent interfering in the 2020 election, passed purported materials on Burisma and Hunter Biden to Giuliani.

Our view that the Russians are involved in the Hunter Biden email issue is consistent with two other significant data points as well. According to the Washington Post, citing four sources, “U.S. intelligence agencies warned the White House last year that Giuliani was the target of an influence operation by Russian intelligence.”

In addition, media reports say that the FBI has now opened an investigation into Russian involvement in this case. According to USA Today, “...federal authorities are investigating whether the material supplied to the New York Post by Rudy Giuliani...is part of a smoke bomb of disinformation pushed by Russia.”

We do not know whether these press reports are accurate, but they do suggest concern within Executive Branch departments and agencies that mirrors ours. It is high time that Russia stops interfering in our democracy.

Signed by,

Jim Clapper
Former Director of National Intelligence
Former Under Secretary of Defense for Intelligence
Former Director of the National Geospatial Intelligence Agency
Former Director of the Defense Intelligence Agency

Mike Hayden
Former Director, Central Intelligence Agency
Former Director, National Security Agency
Former Principal Deputy Director of National Intelligence

Leon Panetta

Former Director, Central Intelligence Agency
Former Secretary of Defense

John Brennan
Former Director, Central Intelligence Agency
Former White House Homeland Security and Counterterrorism Advisor
Former Director, Terrorism Threat Integration Center
Former Analyst and Operations Officer, Central Intelligence Agency

Thomas Finger
Former Deputy Director of National Intelligence for Analysis
Former Assistant Secretary for Intelligence and Research, Department of State
Former Chair, National Intelligence Council

Rick Ledgett
Former Deputy Director, National Security Agency

John McLaughlin
Former Acting Director, Central Intelligence Agency
Former Deputy Director, Central Intelligence Agency
Former Director of Analysis, Central Intelligence Agency
Former Director, Slavic and Eurasian Analysis, Central Intelligence Agency

Michael Morell
Former Acting Director, Central Intelligence Agency
Former Deputy Director, Central Intelligence Agency
Former Director of Analysis, Central Intelligence Agency

Mike Vickers
Former Under Secretary of Defense for Intelligence
Former Operations Officer, Central Intelligence Agency

Doug Wise
Former Deputy Director, Defense Intelligence Agency
Former Senior CIA Operations Officer

Nick Rasmussen
Former Director, National Counterterrorism Center

Russ Travers
Former Acting Director, National Counterterrorism Center
Former Deputy Director, National Counterterrorism Center
Former Analyst of the Soviet Union and Russia, Defense Intelligence Agency

Andy Liepman

Former Deputy Director, National Counterterrorism Center
Former Senior Intelligence Officer, Central Intelligence Agency

John Moseman

Former Chief of Staff, Central Intelligence Agency
Former Director of Congressional Affairs, Central Intelligence Agency
Former Minority Staff Director, Senate Select Committee on Intelligence

Larry Pfeiffer

Former Chief of Staff, Central Intelligence Agency
Former Director, White House Situation Room

Jeremy Bash

Former Chief of Staff, Central Intelligence Agency
Former Chief of Staff, Department of Defense
Former Chief Counsel, House Permanent Select Committee on Intelligence

Rodney Snyder

Former Chief of Staff, Central Intelligence Agency
Former Director of Intelligence Programs, National Security Council
Chief of Station, Central Intelligence Agency

Glenn Gerstell

Former General Counsel, National Security Agency

David B. Buckley

Former Inspector General, Central Intelligence Agency
Former Democratic Staff Director, House Permanent Select Committee on Intelligence
Former Counterespionage Case Officer, United States Air Force

Nada Bakos

Former Analyst and Targeting Officer, Central Intelligence Agency

Patty Brandmaier

Former Senior Intelligence Officer, Central Intelligence Agency
Former Deputy Associate Director for Military Affairs, Central Intelligence Agency
Former Deputy Director of Congressional Affairs, Central Intelligence Agency

James B. Bruce

Former Senior Intelligence Officer, Central Intelligence Agency
Former Senior Intelligence Officer, National Intelligence Council

Considerable work related to Russia

David Cariens

Former Intelligence Analyst, Central Intelligence Agency
50+ Years Working in the Intelligence Community

Janice Cariens

Former Operational Support Officer, Central Intelligence Agency

Paul Kolbe

Former Senior Operations Officer, Central Intelligence Agency
Former Chief, Central Eurasia Division, Central Intelligence Agency

Peter Corsell

Former Analyst, Central Intelligence Agency

Brett Davis

Former Senior Intelligence Officer, Central Intelligence Agency
Former Deputy Director of the Special Activities Center for Expeditionary Operations, CIA

Roger Zane George

Former National Intelligence Officer

Steven L. Hall

Former Senior Intelligence Officer, Central Intelligence Agency
Former Chief of Russian Operations, Central Intelligence Agency

Kent Harrington

Former National Intelligence Officer for East Asia, Central Intelligence Agency
Former Director of Public Affairs, Central Intelligence Agency
Former Chief of Station, Central Intelligence Agency
Former Analyst, Central Intelligence Agency

Don Hepburn

Former Senior National Security Executive

Timothy D. Kilbourn

Former Dean, Sherman Kent School of Intelligence Analysis, Central Intelligence Agency
Former PDB Briefer to President George W. Bush, Central Intelligence Agency

Ron Marks

Former Officer, Central Intelligence Agency
Twice former staff of the Republican Majority Leader

Jonna Hiestand Mendez
Technical Operations Officer, Central Intelligence Agency

Emile Nakhleh
Former Director of the Political Islam Strategic Analysis Program, Central Intelligence Agency
Former Senior Intelligence Analyst, Central Intelligence Agency

Gerald A. O'Shea
Senior Operations Officer, Central Intelligence Agency
Served four tours as Chief of Station, Central Intelligence Agency

David Priess
Former Analyst and Manager, Central Intelligence Agency
Former PDB Briefer, Central Intelligence Agency

Pam Purcilly
Former Deputy Director of Analysis, Central Intelligence Agency
Former Director of the Office of Russian and European Analysis, Central Intelligence Agency
Former PDB Briefer to President George W. Bush, Central Intelligence Agency

Marc Polymeropoulos
Former Senior Operations Officer, Central Intelligence Agency
Former Acting Chief of Operations for Europe and Eurasia, Central Intelligence Agency

Chris Savos
Former Senior Intelligence Officer, Central Intelligence Officer

Nick Shapiro
Former Deputy Chief of Staff and Senior Advisor to the Director, Central Intelligence Agency

John Sipher
Former Senior Operations Officer, Central Intelligence Agency
Former Deputy Chief of Russian Operations, Central Intelligence Agency

Stephen Slick
Former Senior Director for Intelligence Programs, National Security Council
Former Senior Operations Office, Central Intelligence Agency

Cynthia Strand
Former Deputy Assistant Director for Global Issues, Central Intelligence Agency

Greg Tarbell

Former Deputy Executive Director, Central Intelligence Agency

Former Analyst of the Soviet Union and Russia, Central Intelligence Agency

David Terry

Former Chairman of the National Intelligence Collection Board

Former Chief of the PDB, Central Intelligence Agency

Former PDB Briefer to Vice President Dick Cheney, Central Intelligence Agency

Greg Treverton

Former Chair, National Intelligence Council

John Tullius

Former Senior Intelligence Officer, Central Intelligence Agency

David A. Vanell

Former Senior Operations Officer, Central Intelligence Agency

Winston Wiley

Former Director of Analysis, Central Intelligence Agency

Former Chief, Counterterrorism Center, Central Intelligence Agency

Kristin Wood

Former Senior Intelligence Officer, Central Intelligence Agency

Former PDB Briefer, Central Intelligence Agency

In addition, nine additional former IC officers who cannot be named publicly also support the arguments in this letter.



December 22, 2022

Via US Mail and CIA FOIA Portal

Information and Privacy Coordinator
Central Intelligence Agency
Washington, D.C. 20505

Freedom of Information Act Request: Hunter Biden Laptop/IC Corruption

Dear FOIA Officer:

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 distribute that work to a national audience through traditional and social media platforms. AFL's email list contains over 38,000 unique addresses, our Twitter page has approximately 47,300 followers, the Twitter page of our Founder and President has nearly 362,000 followers, our Facebook page has 102,000 followers, and we have another approximately 31,500 followers on GETTR.

I. Background

A. Legal framework

50 U.S.C. Subchapter III is titled "Accountability for Intelligence Activities." 50 U.S.C. § 3092 requires the U.S. intelligence community, including the FBI, to keep relevant congressional intelligence committees fully and currently informed of all intelligence or counterintelligence activities "engaged in by, or are carried out for or on behalf of, any department, agency, or entity of the United States Government." 50 U.S.C. § 3093(f) expressly prohibits the U.S. intelligence community, including the FBI, from engaging in covert action "intended to influence United States political processes, public opinion, policies, or media."

It appears that the FBI violated 50 U.S.C. § 3902 by failing to notify Congress of the Bureau's domestic intelligence operation to influence U.S. political process, public opinion, policies, or media by discrediting and/or suppressing the evidence of corruption contained on Hunter Biden's laptop as "Russian disinformation." Although there is some ambiguity in the statutory text,¹ it also appears that the Hunter Biden operation, like the 2016 Russia collusion hoax before it,² violated 50 U.S.C. § 3903(f)'s prohibition on "covert action" aimed at affecting American elections.

B. The partisan origins of the claim that Hunter Biden's laptop was "Russian disinformation"

On December 9, 2019, the FBI issued a subpoena for and took possession of Hunter Biden's laptop.³ The hard drive contained emails, documents, and other evidence that then-former Vice President Joe Biden and his family had, for years, been running a political influence-peddling operation. Money flowed to the Biden family from, *inter alia*, the People's Republic of China, Russia, and Ukraine.⁴ The evidence is that the FBI was engaged in a criminal investigation of Hunter Biden for money laundering at that time.⁵

On February 5, 2020, the Washington Post reported that Sen. Chuck Grassley and Sen. Ron Johnson were reviewing potential conflicts of interest posed by the business activities of Hunter Biden and his associates during the Obama administration,

¹ "Covert action" means an "activity or activities of the United States Government to influence political, economic, or military conditions abroad, where it is intended that the role of the United States Government will not be apparent or acknowledged publicly." 50 U.S.C. § 3093(e)(1). Section 3093(f) provides: "No covert action may be conducted which is intended to influence United States political processes, public opinion, policies, or media." Read narrowly, § 3903 thus seems to prohibit only "covert actions" overseas that are intended to influence U.S. elections, public opinion, policies, or media. However, it is a "fundamental canon of statutory construction that the words of a statute must be read in their context and with a view to their place in the overall statutory scheme" and hornbook law that statutes must be read symmetrically and coherently as a harmonious whole. *Food & Drug Admin. v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120, 133 (2000) (citations omitted). To contend that Congress would prohibit the FBI from engaging in a *foreign* covert action to affect U.S. elections but allow the FBI to engage in a *domestic* covert action for the same purpose is to upend Subchapter III's statutory purpose and scheme.

² Even under a narrow reading, the FBI's Russia collusion hoax violated 50 U.S.C. § 3093(f). See e.g., *United States v. Michael A. Sussmann*, ECF No. 1, No.1:21-cr-00582 (D.D.C. Sept. 16, 2021); *United States v. Igor Y. Danchenko*, ECF No. 1, No. 1:21-CR-245 (E.D. Va. Nov. 3, 2021); J. Peter Zane, *Why the Russiagate Scandal Outranks the Rest*, Real Clear Politics (Dec. 8, 2021), <https://bit.ly/3FOHYLh>; Lee Smith, "Here Comes the Limited Hangout", Tablet (Dec. 2, 2021), <https://bit.ly/3Purpsj>; Jonathon Turley, "A Means of Distracting the Public": Brennan Briefed Obama on Clinton "Plan" to Tie Trump to Russia, Res Ipsa Loquitur (Oct. 7, 2020), <https://bit.ly/3FVGSi1>; Matt Taibbi, *It's official: Russiagate is this generation's WMD, The Iraq war faceplant damaged the reputation of the press. Russiagate just destroyed it*, TK News by Matt Taibbi (Mar. 23, 2019), <http://bit.ly/3FSMMAc>.

³ Michael Shellenberger, *Twitter Files: Part 7* no. 4 (Dec. 19, 2022), bit.ly/3W18anx.

⁴ *Id.* at no. 11.

⁵ Ian Schwartz, *James Rosen: FBI Has An Active Criminal Investigation Into Hunter Biden For Money Laundering*, RealClear Politics (Oct. 29, 2020), <https://bit.ly/3PI6baq>.

particularly with respect to the Biden family’s business activities in Ukraine and China.⁶ As part of that investigation, Senate staff requested Obama administration records from the National Archives, including presidential records held by former President Obama. On March 13, 2020, an Obama representative responded by alleging that the purpose of the records request was to “give credence to a Russian disinformation campaign.”⁷ Also in March 2020, the FBI and relevant members of the Intelligence Community briefed the Senate investigators and “provided assurances that there was no reason that our committees should not continue their investigation.”⁸ The FBI did not inform the Senate investigators that it had possession of the Biden laptop.

On May 20, 2020, the Senate Homeland Security and Governmental Affairs Committee voted to subpoena a lobbying firm that worked with Burisma, a Ukrainian company that paid Hunter Biden to serve on its board. Opposing the subpoena, Democrats said that the Senate investigation into Biden and his son would aid Russia’s disinformation campaign ahead of the November election.⁹

B. Building the foundation for partisan covert action to protect Joe Biden in the 2020 Presidential election

On or about June 15, 2020, former FBI general counsel James Baker, a central figure in the Russia collusion hoax, was named Twitter’s Deputy General Counsel.¹⁰ According to the former Director of National Intelligence:

Jim Baker is the person who was involved in writing an exoneration memo for Hillary Clinton, having classified information on her server before the FBI ever interviewed her. He’s the person who hand-carried information from Hillary Clinton’s campaign lawyer, Michael Sussmann, into the FBI, false information about a relationship between the Trump campaign and the Russian Alfa Bank. It continued on with him trying to invoke the 25th Amendment to remove Donald Trump after Donald Trump fired Jim Comey. He was involved in the leak investigation involving Jim Comey that was the subject of the FBI inspector general [investigation].¹¹

⁶ Colby Itkowitz, *GOP senators request travel documents in Hunter Biden investigation*, The Washington Post (Feb. 2, 2020), <https://bit.ly/3YEvzlo>.

⁷ Emma Loop, *Obama Privately Blasted A Republican Investigation Into Joe Biden And Ukraine, Calling It An Effort To Boost “Russian Disinformation”*, BuzzFeed (May 5, 2020), <https://bit.ly/3hLDnRV>.

⁸ *Letter from Sen. Charles E. Grassley and Sen. Ron Johnson to Ms. Nikki Floris and Mr. Brandley Benavides* at p.2, n.7 (Aug. 25, 2022), <https://bit.ly/3GaIJj5>.

⁹ RFE/RL, *U.S. Senate Committee Issues Subpoena In Probe Of Hunter Biden’s Ukraine Ties*, RadioFreeEurope/RadioLiberty (May 21, 2020), <https://bit.ly/3jlR76n>.

¹⁰ Thornton McEnery, Jaclyn Hendricks, and Emily Jacobs, *Twitter hires former FBI lawyer James Baker to join legal team*, New York Post (June 16, 2020), <https://bit.ly/3YRD2hk>.

¹¹ Jessica Chasmar, *Ratcliffe: No ‘coincidence’ Jim Baker got top Twitter job after pushing Russian collusion narrative*, Fox News (Dec. 12, 2022), <https://bit.ly/3jm8rrV>.

Baker was one of many former FBI employees working at Twitter, including Dawn Burton, the former deputy chief of staff to FBI head James Comey, who was responsible for initiating the Russia collusion hoax investigation to hamstring Donald Trump. Burton joined Twitter in 2019 as director of strategy.¹²

On July 13, 2020, then-Minority Leader Schumer, Sen. Mark Warner, Speaker Pelosi, and Rep. Adam Schiff sent a letter with a classified attachment to the FBI claiming that Congress was the subject of a Russian disinformation campaign. The classified attachment included unclassified elements that, among other things, attempted – and failed – to tie the Senate investigation into the Biden family’s financial deals to Russian disinformation. Those elements were then leaked to the press.¹³

On July 15, 2020, FBI Supervisory Special Agent Elvis M. Chan offered Twitter temporary security clearances “30 days out from the election.”

On July 16, 2020, then-Ranking Member Peters and then-Ranking Member Wyden requested a briefing from the FBI’s Foreign Influence Task Force on matters purportedly relating to the Biden investigation.

On July 23, 2020, Politico published an article alleging a “foreign disinformation plot to damage former vice president Joe Biden” based on “a farcical, long-debunked, hardcore right-wing conspiracy theory” of Biden family corruption. According to Politico, Democrat concerns were triggered by the prospect of “foreign interference in the 2020 race and fear of *another Kremlin-led effort to boost Trump’s reelection prospects.*” (Emphasis added.)¹⁴ This article regurgitated information leaked by the Democrats and as one part of a much broader leftist information effort to use the “Russian disinformation” mantra as a shield to prevent independent inquiries into the Bidens’ foreign entanglements.¹⁵

On August 6, 2020, FBI employees Nikki Floris and Bradley Benavides conducted the subject briefing. It consisted primarily of information known to Senate investigators and certain other information unconnected to the Biden investigation. The briefing did not include a disclosure that the FBI had Hunter Biden’s laptop in its possession despite having it for eight months. At the briefing as well as after, Grassley and Johnson requested relevant records relating to what happened at the briefing, including the 302 or similar summary, the intelligence basis for the briefing, and the

¹² Shellenberger, *supra* at 28-29.

¹³ *Letter from Sen. Charles E. Grassley and Sen. Ron Johnson, supra* n.6

¹⁴ Natasha Bertrand, *Democrats: Packets sent to Trump allies are part of foreign plot to damage Biden*, Politico (July 23, 2020), <https://bit.ly/3j0yfcJ>.

¹⁵ *See, e.g.*, Ryan Goodman and Asha Rangappa, *How Sen. Ron Johnson’s Investigation Became an Enabler of Russian Disinformation: Part I*, Just Security (Aug. 11, 2020), <https://bit.ly/3v9fdDZ>; Asha Rangappa and Ryan Goodman, *Manafort’s Reward: Sen. Ron Johnson and the Ukraine Conspiracy Investigation: Part II*, Just Security (Aug. 24, 2020), <https://bit.ly/3FOnjXl>.

personnel involved in making the decision to brief them. Until today, the FBI has failed to provide the relevant records.¹⁶

According to FBI whistleblowers, FBI Supervisory Intelligence Analyst Brian Auten opened an assessment that was used by an FBI Headquarters (“FBI HQ”) team to improperly discredit negative Hunter Biden information as disinformation. This caused investigative activity to cease at approximately the same time as the August 6 briefing. Based on allegations, verified and verifiable derogatory information on Hunter Biden was falsely labeled by FBI managers as disinformation.¹⁷

On August 7, 2020, Senator Richard Blumenthal published an opinion article in the Washington Post alleging that:

[T]he Homeland Security and Governmental Affairs Committee, is moving ahead with an investigation into presumptive Democratic presidential nominee Joe Biden’s family using documents provided to the senator by the son of a former KGB officer. Johnson’s actions are of such concern to the CIA, according to news reports, that the agency has refused to brief him. Think of it: Congress may become a forum for debunked conspiracy theories peddled by Kremlin proxies. *There is no excuse for perpetuating Russian disinformation in the U.S. Senate...*

(Emphasis added.)¹⁸ Blumenthal, however, lied.

C. Planning the partisan covert action to protect Joe Biden

At all times relevant, the FBI had possession of Hunter Biden’s laptop and knew, or should have known, that it and the information it contained were original and genuine, and not the product of foreign malign action. Nevertheless, it had been feeding social media companies, including Twitter, and others curated information regarding alleged threats to election integrity by “state actors,” reinforcing these corporations’ preexisting ideological antipathy to and bias against then-President Trump and his administration. According to a December 2020 declaration by Twitter’s “Head of Site Integrity”:

[F]ederal law enforcement agencies communicated that they expected “hack-and-leak operations” by state actors might occur in the period shortly before the 2020 presidential election, likely in October. I was told in these meetings that the intelligence community expected that individuals associated with

¹⁶ Letter from Sen. Charles E. Grassley and Sen. Ron Johnson, *supra* n.6 at 3.

¹⁷ Letter from Sen. Charles E. Grassley to the Hon. Merrick Garland and the Hon. Christopher Wray at 1 (July 25, 2022), <https://bit.ly/3SsmMA6>.

¹⁸ Sen. Richard Blumenthal, *The threat to U.S. elections is real, and frightening. The public has a right to know*, The Washington Post (Aug. 7, 2020), <https://bit.ly/3BCyedy>.

political campaigns would be subject to hacking attacks and that material obtained through those hacking attacks would likely be disseminated over social media platforms, including Twitter. These expectations of hack-and-leak operations were discussed throughout 2020. I also learned in these meetings that there were rumors that a hack-and-leak operation would involve Hunter Biden.¹⁹

These warnings, however, were not based on any new intelligence information.²⁰

On August 11, 2020, FBI agent Chan shared information with Twitter regarding a Russian hacking organization called “APT28” through the FBI’s secure, one-way communications channel.²¹ By mid-September 2020, the FBI and Twitter were operating an encrypted messaging network for employee communications.²² On September 15, 2020, Laura Dehmrow from the FBI’s Foreign Influence Task Force and Agent Chan requested permission to provide former FBI General Counsel Baker a classified briefing.²³

On or about September 20, 2020, the “Aspen Digital Hack-and-Dump Working Group” ran a “table-top exercise” titled “The Burisma Leak” for social media platforms and top national security reporters for the New York Times, and the Washington Post. The purpose of the exercise was to game a response to the release of documents demonstrating Biden family corruption, ostensibly by ATP28.²⁴ A part of the Aspen Institute, a leftist foundation led by Democrat party donors and operatives, Aspen Digital’s mission is to “empower[] policy-makers, civic organizations, companies, and the public to be responsible stewards of technology and media in the service of an informed, just, and equitable world” and stopping “Information Disorder.”²⁵

On September 23, 2020, Sen. Charles Grassley and Sen. Ron Johnson issued the Biden report. It was solely based on interviews with former U.S. government officials, Obama administration federal government records, and records from Blue Star Strategies, a Democrat lobbying firm. The report documented that the Biden family was “involved in a vast financial network that connected them to foreign nationals and foreign governments across the globe” and that they were trading on Joe Biden’s

¹⁹ See Declaration of Yoel Roth ¶11, FEC MUR7827 (Dec. 17, 2020), <https://bit.ly/3PGUDUZ>.

²⁰ See Shellenberger, *supra* n.1 at 14-21.

²¹ *Id.* at 23.

²² *Id.* at 32.

²³ *Id.* at 33.

²⁴ *Id.* at 31; Ace of Spades HQ, *The FBI Paid Twitter Three and a Half Million Dollars to “Help” It Censor “Misinformation”* (Dec. 20, 2022) (reproducing full Aspen Digital exercise agenda), <https://bit.ly/3YDxRkN>.

²⁵ Aspen Digital, *Home and Events landing pages* (last accessed Dec. 22, 2022), <https://bit.ly/3HVEbhS>.

government position for their own profit and gain.²⁶ The report further documented that Democrat committee members “misconstrued the facts of this investigation and...smeared it as *a Russian disinformation campaign*.” (Emphasis added.) To that end, the Democrats, especially Senators Peters, Wyden, and Blumenthal, lied about sources, manipulated classified information, and leaked confidential information to Politico and other politically aligned information organs.²⁷

On or before October 13, 2020, the FBI warned Facebook to be on “high alert” relating to a “Russian propaganda dump,” an apparent reference to the Biden laptop, which had been in the FBI’s possession for almost one year.²⁸ Whistleblowers allege that the FBI had done nothing with it then. “After the FBI obtained the Hunter Biden laptop from the Wilmington, DE computer shop, these whistleblowers stated that local FBI leadership told employees, ‘you will not look at that Hunter Biden laptop.’” The whistleblowers further allege that the FBI did not begin to examine the laptop’s contents until after the 2020 presidential election.²⁹

D. Executing the covert action to protect Joe Biden

On October 14, 2020, the New York Post reported strong evidence, in the form of emails from the laptop hard drive, of quid-pro-quo political corruption and influence peddling by then-candidate and former Vice President Joe Biden. The emails demonstrated that in or about April 2014, Hunter Biden, a person without any energy industry background or expertise whatsoever, was given a board seat by a Ukrainian gas company called Burisma. Burisma made \$83,333 payments monthly to Hunter Biden’s company.³⁰ In turn, Hunter Biden introduced then-Vice President Biden to a top Burisma executive. Shortly thereafter, Joe Biden pressured Ukrainian government officials into firing a prosecutor investigating Burisma by threatening to cancel a \$1 billion U.S. loan guarantee.³¹ Rudy Giuliani, former New York City Mayor

²⁶ U.S. Senate Committee on Homeland Security and Governmental Affairs and Committee on Finance, Majority Staff Report, *Hunter Biden, Burisma, and Corruption: The Impact on U.S. Government Policy and Related Concerns* at pp. 4-6, 31-33, 69, 71-79, 83-85 (Sep. 2020) (“Senate Report”), <https://bit.ly/3hxBGYg>.

²⁷ See generally *id.* at 55-64.

²⁸ Joseph A. Wulfsohn, *Mark Zuckerberg tells Joe Rogan FBI warned Facebook of ‘Russian propaganda’ before Hunter Biden laptop story*, Fox News (Aug. 25, 2022), <https://bit.ly/3FWxZ7S>.

²⁹ Brianna Herlihy, *FBI met weekly with Big Tech ahead of the 2020 election, agent testifies*, Fox News (Dec. 3, 2022), <https://fxn.ws/3j6Hatr>; *Letter from Sen. Ron Johnson to the Hon. Michael E. Horowitz* at 2 (Aug. 23, 2022) (cleaned up), <https://bit.ly/3WfIhFk>.

³⁰ Hunter Biden reportedly received \$1.5 million in total. Also, Burisma appears to have paid an additional \$1.5 million to a Hunter Biden business associate, Devon Archer. See Mattathias Schwartz, *The National Archives Wants to Release Hundreds of Pages of Emails about Hunter Biden and Burisma — and the White House Won’t Say Whether It Will Let It Happen*, Insider (Dec. 14, 2022), bit.ly/3PJ5620.

³¹ Emma-Jo Morris and Gabrielle Fonrouge, *Smoking-gun email reveals how Hunter Biden introduced Ukrainian businessman to VP dad*, The New York Post (Oct. 14, 2020), <https://bit.ly/3HUUUpE>.

and U.S. Attorney for the Southern District of New York, supplied the laptop to the newspaper.

Baker, his FBI allies, and Democrat operatives responded immediately. Baker insisted on an internal email that the Hunter Biden laptop evidence was faked and/or hacked,³² and reached out to Mathew Perry in the FBI's Office of General Counsel to coordinate a response.³³ Meanwhile, Democrat-aligned media organs immediately began an effort to discredit the evidence as Russian disinformation, apparently relying on FBI leaks and sources.

On October 15, 2020, the Hill linked Hunter Biden's laptop to an alleged Russian influence campaign to pass misinformation to President Trump. Citing an anonymous source, the Hill reported, "Several senior administration officials, including Attorney General William Barr, FBI Director Christopher Wray and White House counsel Pat Cipollone 'all had common understanding' that Russia was targeting the president's personal lawyer."³⁴ Also on October 15, 2020, NBC reported that "Federal investigators are examining whether emails allegedly describing activities by Joe Biden and his son Hunter and found on a laptop at a Delaware repair shop are linked to a foreign intelligence operation" based on claims made by "two people familiar with the matter"; and that the evidence of Biden corruption was "greeted with widespread skepticism."³⁵

On October 16, 2020, CNN reported, under six bylines, that "US authorities are investigating whether the published emails that purport to detail the business dealings of Joe Biden's son in Ukraine and China are connected to an ongoing Russian disinformation effort targeting the former vice president's campaign, a US official and a congressional source briefed on the matter said." CNN declared that "Giuliani has openly coordinated with a known Russian agent to promote disinformation about the Bidens" and that "The FBI is leading the investigation."³⁶

Also, on October 16, 2020, House Intelligence Committee Chairman Adam Schiff claimed that Hunter Biden's laptop was a Russian disinformation campaign. "We know that this whole smear on Joe Biden comes from the Kremlin," Schiff said, "That's been clear for well over a year now that they've been pushing this false

³² Shellenberger, *supra n.1* at 34-38.

³³ *Id.* at 39.

³⁴ Justine Coleman, *Intelligence officials warned Trump that Giuliani was target of Russian influence campaign: report*, The Hill (Oct. 15, 2020), <https://bit.ly/3WzHaQV>.

³⁵ Ken Dilanian, *Feds examining whether alleged Hunter Biden emails are linked to a foreign intel operation. One email, which has not been confirmed to be authentic, suggested a meeting between Joe Biden and a rep from a Ukraine firm that once paid his son Hunter*, NBC News (Oct. 15, 2020), <https://bit.ly/3BOh5FZ>.

³⁶ Marshall Cohen, Zachary Cohen, Michael Warren, Evan Perez, Alex Marquardt, and Mark Morales, *US authorities investigating if recently published emails are tied to Russian disinformation effort targeting Biden*, CNN (Oct. 16, 2020), <https://bit.ly/3PGVVPT>.

narrative about this vice president and his son. Clearly, the origins of this whole smear are from the Kremlin, and the president is only too happy to have Kremlin help and try to amplify it.”³⁷ At all times relevant, Schiff knew there was no competent evidence to support his claim that Hunter Biden’s laptop, and the evidence of Biden corruption contained on it, were “Russian disinformation.” Notably, Schiff was a key player in the campaign to amplify allegations of Russian collusion by former President Trump. At all times relevant, Schiff knew both that the Russia collusion allegations were false, and that these allegations had been fabricated by the Hillary Clinton campaign and operationalized by its allied intelligence community operatives.

Also on October 16, 2020, a Twitter executive noted “well-timed briefings from Gov’t sources...which would support an assessment that [the laptop is] neither whistleblower or dissident content.”³⁸ These briefings most likely included FBI officials.

On October 19, 2020, The Hill reported that the Director of National Intelligence John Ratcliff said that there was no evidence to support the claim that Hunter Biden’s laptop and e-mails on it were part of a Russian disinformation campaign. According to the DNI, “The intelligence community doesn’t believe that because there is no intelligence that supports that. And we shared no intelligence with Chairman Schiff or any other member of Congress that Hunter Biden’s laptop is part of some Russian disinformation campaign.”³⁹

Also on October 19, 2020, Politico released a letter from 51 former intelligence officials, including political partisans John Brennan, Jim Clapper, and Michael Hayden, alleging that “the arrival on the US political scene of emails purportedly belonging to Vice President Biden’s son Hunter, much of it related to his time serving on the Board of the Ukrainian gas company Burisma, has all the classic earmarks of a Russian information operation.” The 51 former intelligence officials further alleged that “For the Russians at this point, with Trump down in the polls, there is incentive for Moscow to pull out the stops to do anything possible to help Trump win and/or to weaken Biden should he win. A ‘laptop op’ fits the bill, as the publication of the emails are clearly designed to discredit Biden.” The officials concluded that “Our view that the Russians are involved in the Hunter Biden email issue” was shared by “*Executive Branch departments and agencies [and] It is high time that Russia stops interfering in our democracy.*” (Emphasis in original.)⁴⁰

³⁷ Adam Shaw, *Adam Schiff claims Hunter Biden email stories come ‘from the Kremlin’*, Fox News (Oct. 17, 2020), <https://bit.ly/3V5Lczg>.

³⁸ *Id.* at 40.

³⁹ Olivia Beavers and Joe Concha, *Ratcliffe, Schiff battle over Biden emails, politicized intelligence*, The Hill (Oct. 19, 2020), <https://bit.ly/3W3OPY1>.

⁴⁰ Clapper, Brennan, et al, *Public Statement on the Hunter Biden Emails* (Oct. 19, 2020), <https://bit.ly/3FPVfnV>.

This letter had a significant impact on the 2020 election. It was repeatedly cited by Democrat operatives to discredit the evidence of Biden’s political corruption. Also, it was used by Democrat-aligned media organs to suppress the evidence from Hunter Biden’s laptop on the grounds that it was hacked or faked Russian disinformation.

E. The covert operation to protect Joe Biden achieved its objective

On March 16, 2022, the New York Times quietly admitted that the Hunter Biden laptop was genuine and that its contents were authentic.⁴¹ This admission came more than two years and three months after the FBI took possession of Hunter Biden’s laptop. Regardless, the evidence is clear that the FBI’s partisan covert action to protect Joe Biden, in collusion with Democrat politicians and operatives, and their allied social and other media organs,⁴² achieved its objective. Nearly four out of five Americans, or 79 percent, believe that had there been “truthful” coverage of the Hunter Biden laptop, it would have changed the outcome of the 2020 presidential election.⁴³

II. Records Requested

To help expose the intelligence community’s information operations against our democracy, and to shed light on the federal government’s conduct with respect to Joe Biden’s corruption, AFL requests the following records under the Freedom of Information Act (FOIA), 5 U.S.C. § 552(a).

- A. All emails to or from John Brennan. The time frames for this item are September 1, 2020, to November 1, 2020, and March 23, 2022, to the date of processing.
- B. All records of, mentioning, or regarding the “Public Statement on the Hunter Biden Emails” dated October 19, 2020, that is available at <https://www.politico.com/f/?id=00000175-4393-d7aa-af77-579f9b330000> and attached as Exhibit A.
- C. All records relating to or regarding the processing of the above items.

III. Custodians

- A. William J. Burns

⁴¹ Katie Benner, Kenneth P. Vogel and Michael S. Schmidt, *Hunter Biden Paid Tax Bill, but Broad Federal Investigation Continues*, The New York Times (Mar. 16, 2022), <https://bit.ly/3PuwUhf>.

⁴² Nick Nolte, *14 Media Outlets that Lied About Hunter Biden’s Laptop Scandal Being Russian Disinformation*, Breitbart (Dec. 10, 2022), <https://bit.ly/3WE0MUc>.

⁴³ Bruce Golding, *79% say ‘truthful’ coverage of Hunter Biden’s Laptop would have changed 2020 election*, The New York Post (Aug. 26, 2022), <https://bit.ly/3Vm6SaC>; see also Jerry Dunleavy, *Barr says Hunter Biden Russian disinformation claims ‘probably affected’ election outcome*, The Washington Examiner (Mar. 22, 2022), <https://bit.ly/3jqg00l>.

- B. David S. Cohen
- C. All contractors and employees with a grade equivalent of GS-14 step 5 in the Executive Offices
- D. All contractors and employees with a grade equivalent of GS-14, step 5 in the “Mission Center” assigned responsibility for monitoring foreign threats to U.S. election integrity

IV. Fee Waiver Request

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

V. Processing and Production

Processing should occur in strict compliance with the processing guidance in the Attorney General’s Memorandum on Freedom of Information Act Guidelines. If you have any questions about our request or believe further discussions regarding search and processing would facilitate a more efficient production of records of interest to AFL, then please contact me at FOIA@aflegal.org. If AFL’s request for a fee waiver is not granted in full, please contact us immediately upon making that determination.

To accelerate your 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 to America First Legal Foundation, 611 Pennsylvania Ave SE #231, Washington, DC 20003.

Thank you in advance for your cooperation.

Sincerely,

/s/ Reed D. Rubinstein
America First Legal Foundation

EXHIBIT A

Public Statement on the Hunter Biden Emails

October 19, 2020

We are all individuals who devoted significant portions of our lives to national security. Some of us served in senior positions in policy departments and agencies, and some of us served in senior positions in the Intelligence Community. Some of us were political appointees, and some were career officials. Many of us worked for presidents of both political parties.

We are all also individuals who see Russia as one of our nation's primary adversaries. All of us have an understanding of the wide range of Russian overt and covert activities that undermine US national security, with some of us knowing Russian behavior intimately, as we worked to defend our nation against it for a career. A few of us worked against Russian information operations in the United States in the last several years.

Perhaps most important, each of us believes deeply that American citizens should determine the outcome of elections, not foreign governments. All of us agree with the founding fathers' concern about the damage that foreign interference in our politics can do to our democracy.

It is for all these reasons that we write to say that the arrival on the US political scene of emails purportedly belonging to Vice President Biden's son Hunter, much of it related to his time serving on the Board of the Ukrainian gas company Burisma, has all the classic earmarks of a Russian information operation.

We want to emphasize that we do not know if the emails, provided to the New York Post by President Trump's personal attorney Rudy Giuliani, are genuine or not and that we do not have evidence of Russian involvement -- just that our experience makes us deeply suspicious that the Russian government played a significant role in this case.

If we are right, this is Russia trying to influence how Americans vote in this election, and we believe strongly that Americans need to be aware of this.

There are a number of factors that make us suspicious of Russian involvement.

Such an operation would be consistent with Russian objectives, as outlined publicly and recently by the Intelligence Community, to create political chaos in the United States and to deepen political divisions here but also to undermine the candidacy of former Vice President Biden and thereby help the candidacy of President Trump. For the Russians at this point, with Trump down in the polls, there is incentive for Moscow to pull out the stops to do anything possible to help Trump win and/or to weaken Biden should he win. A "laptop op" fits the bill, as the publication of the emails are clearly designed to discredit Biden.

Such an operation would be consistent with some of the key methods Russia has used in its now multi-year operation to interfere in our democracy – the hacking (via cyber operations) and the dumping of accurate information or the distribution of inaccurate or misinformation. Russia did both of these during the 2016 presidential election – judgments shared by the US Intelligence Community, the investigation into Russian activities by Special Counsel Robert Mueller, and the entirety (all Republicans and Democrats) on the current Senate Intelligence Committee.

Such an operation is also consistent with several data points. The Russians, according to media reports and cybersecurity experts, targeted Burisma late last year for cyber collection and gained access to its emails. And Ukrainian politician and businessman Adriy Derkach, identified and sanctioned by the US Treasury Department for being a 10-year Russian agent interfering in the 2020 election, passed purported materials on Burisma and Hunter Biden to Giuliani.

Our view that the Russians are involved in the Hunter Biden email issue is consistent with two other significant data points as well. According to the Washington Post, citing four sources, “U.S. intelligence agencies warned the White House last year that Giuliani was the target of an influence operation by Russian intelligence.”

In addition, media reports say that the FBI has now opened an investigation into Russian involvement in this case. According to USA Today, “...federal authorities are investigating whether the material supplied to the New York Post by Rudy Giuliani...is part of a smoke bomb of disinformation pushed by Russia.”

We do not know whether these press reports are accurate, but they do suggest concern within Executive Branch departments and agencies that mirrors ours. It is high time that Russia stops interfering in our democracy.

Signed by,

Jim Clapper
Former Director of National Intelligence
Former Under Secretary of Defense for Intelligence
Former Director of the National Geospatial Intelligence Agency
Former Director of the Defense Intelligence Agency

Mike Hayden
Former Director, Central Intelligence Agency
Former Director, National Security Agency
Former Principal Deputy Director of National Intelligence

Leon Panetta

Former Director, Central Intelligence Agency
Former Secretary of Defense

John Brennan
Former Director, Central Intelligence Agency
Former White House Homeland Security and Counterterrorism Advisor
Former Director, Terrorism Threat Integration Center
Former Analyst and Operations Officer, Central Intelligence Agency

Thomas Finger
Former Deputy Director of National Intelligence for Analysis
Former Assistant Secretary for Intelligence and Research, Department of State
Former Chair, National Intelligence Council

Rick Ledgett
Former Deputy Director, National Security Agency

John McLaughlin
Former Acting Director, Central Intelligence Agency
Former Deputy Director, Central Intelligence Agency
Former Director of Analysis, Central Intelligence Agency
Former Director, Slavic and Eurasian Analysis, Central Intelligence Agency

Michael Morell
Former Acting Director, Central Intelligence Agency
Former Deputy Director, Central Intelligence Agency
Former Director of Analysis, Central Intelligence Agency

Mike Vickers
Former Under Secretary of Defense for Intelligence
Former Operations Officer, Central Intelligence Agency

Doug Wise
Former Deputy Director, Defense Intelligence Agency
Former Senior CIA Operations Officer

Nick Rasmussen
Former Director, National Counterterrorism Center

Russ Travers
Former Acting Director, National Counterterrorism Center
Former Deputy Director, National Counterterrorism Center
Former Analyst of the Soviet Union and Russia, Defense Intelligence Agency

Andy Liepman

Former Deputy Director, National Counterterrorism Center
Former Senior Intelligence Officer, Central Intelligence Agency

John Moseman

Former Chief of Staff, Central Intelligence Agency
Former Director of Congressional Affairs, Central Intelligence Agency
Former Minority Staff Director, Senate Select Committee on Intelligence

Larry Pfeiffer

Former Chief of Staff, Central Intelligence Agency
Former Director, White House Situation Room

Jeremy Bash

Former Chief of Staff, Central Intelligence Agency
Former Chief of Staff, Department of Defense
Former Chief Counsel, House Permanent Select Committee on Intelligence

Rodney Snyder

Former Chief of Staff, Central Intelligence Agency
Former Director of Intelligence Programs, National Security Council
Chief of Station, Central Intelligence Agency

Glenn Gerstell

Former General Counsel, National Security Agency

David B. Buckley

Former Inspector General, Central Intelligence Agency
Former Democratic Staff Director, House Permanent Select Committee on Intelligence
Former Counterespionage Case Officer, United States Air Force

Nada Bakos

Former Analyst and Targeting Officer, Central Intelligence Agency

Patty Brandmaier

Former Senior Intelligence Officer, Central Intelligence Agency
Former Deputy Associate Director for Military Affairs, Central Intelligence Agency
Former Deputy Director of Congressional Affairs, Central Intelligence Agency

James B. Bruce

Former Senior Intelligence Officer, Central Intelligence Agency
Former Senior Intelligence Officer, National Intelligence Council

Considerable work related to Russia

David Cariens

Former Intelligence Analyst, Central Intelligence Agency
50+ Years Working in the Intelligence Community

Janice Cariens

Former Operational Support Officer, Central Intelligence Agency

Paul Kolbe

Former Senior Operations Officer, Central Intelligence Agency
Former Chief, Central Eurasia Division, Central Intelligence Agency

Peter Corsell

Former Analyst, Central Intelligence Agency

Brett Davis

Former Senior Intelligence Officer, Central Intelligence Agency
Former Deputy Director of the Special Activities Center for Expeditionary Operations, CIA

Roger Zane George

Former National Intelligence Officer

Steven L. Hall

Former Senior Intelligence Officer, Central Intelligence Agency
Former Chief of Russian Operations, Central Intelligence Agency

Kent Harrington

Former National Intelligence Officer for East Asia, Central Intelligence Agency
Former Director of Public Affairs, Central Intelligence Agency
Former Chief of Station, Central Intelligence Agency
Former Analyst, Central Intelligence Agency

Don Hepburn

Former Senior National Security Executive

Timothy D. Kilbourn

Former Dean, Sherman Kent School of Intelligence Analysis, Central Intelligence Agency
Former PDB Briefer to President George W. Bush, Central Intelligence Agency

Ron Marks

Former Officer, Central Intelligence Agency
Twice former staff of the Republican Majority Leader

Jonna Hiestand Mendez
Technical Operations Officer, Central Intelligence Agency

Emile Nakhleh
Former Director of the Political Islam Strategic Analysis Program, Central Intelligence Agency
Former Senior Intelligence Analyst, Central Intelligence Agency

Gerald A. O'Shea
Senior Operations Officer, Central Intelligence Agency
Served four tours as Chief of Station, Central Intelligence Agency

David Priess
Former Analyst and Manager, Central Intelligence Agency
Former PDB Briefer, Central Intelligence Agency

Pam Purcilly
Former Deputy Director of Analysis, Central Intelligence Agency
Former Director of the Office of Russian and European Analysis, Central Intelligence Agency
Former PDB Briefer to President George W. Bush, Central Intelligence Agency

Marc Polymeropoulos
Former Senior Operations Officer, Central Intelligence Agency
Former Acting Chief of Operations for Europe and Eurasia, Central Intelligence Agency

Chris Savos
Former Senior Intelligence Officer, Central Intelligence Officer

Nick Shapiro
Former Deputy Chief of Staff and Senior Advisor to the Director, Central Intelligence Agency

John Sipher
Former Senior Operations Officer, Central Intelligence Agency
Former Deputy Chief of Russian Operations, Central Intelligence Agency

Stephen Slick
Former Senior Director for Intelligence Programs, National Security Council
Former Senior Operations Office, Central Intelligence Agency

Cynthia Strand
Former Deputy Assistant Director for Global Issues, Central Intelligence Agency

Greg Tarbell

Former Deputy Executive Director, Central Intelligence Agency

Former Analyst of the Soviet Union and Russia, Central Intelligence Agency

David Terry

Former Chairman of the National Intelligence Collection Board

Former Chief of the PDB, Central Intelligence Agency

Former PDB Briefer to Vice President Dick Cheney, Central Intelligence Agency

Greg Treverton

Former Chair, National Intelligence Council

John Tullius

Former Senior Intelligence Officer, Central Intelligence Agency

David A. Vanell

Former Senior Operations Officer, Central Intelligence Agency

Winston Wiley

Former Director of Analysis, Central Intelligence Agency

Former Chief, Counterterrorism Center, Central Intelligence Agency

Kristin Wood

Former Senior Intelligence Officer, Central Intelligence Agency

Former PDB Briefer, Central Intelligence Agency

In addition, nine additional former IC officers who cannot be named publicly also support the arguments in this letter.