

# EXHIBIT

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**From:** [Kevin Schmidt](#)  
**To:** [Cheney, Stacy](#)  
**Cc:** [Moreno, Diana](#); [Coley, Andrew](#)  
**Bcc:** [Eric Bolinder](#)  
**Subject:** RE: NTIA FOIA 20-071  
**Date:** Monday, December 14, 2020 2:22:00 PM  
**Attachments:** [image001.png](#)

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Good afternoon,

AFPF noticed news reports that indicate Mr. Candeub is leaving NTIA to take a position at the DOJ. In the first interim production, one record indicated that Mr. Candeub forwarded emails from his government account to his private email account. Additionally, we still maintain that all text messages are responsive to our FOIA request.

Of course, Mr. Simington was recently confirmed as FCC Commissioner, so he'll also be leaving.

Given the news of these departures, we are requesting that NTIA take affirmative steps to preserve all potentially responsive records, including text message records and any private email account that may contain government records.

Please let me know if you have any questions.

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**From:** Cheney, Stacy <SCheney@ntia.gov>  
**Sent:** Monday, November 16, 2020 5:37 PM  
**To:** Kevin Schmidt <KSchmidt@afphq.org>  
**Cc:** Moreno, Diana <dmoreno@ntia.gov>; Coley, Andrew <acoley@ntia.gov>  
**Subject:** RE: NTIA FOIA 20-071

Thank you for clarifying the address. We will send the 2<sup>nd</sup> interim response and all future responses to your office address in the initial request. We are still working through the records and do not have a final count or an estimate of how many records will be responsive to your request. Nor do we have an estimate of when this will be completed. But we will continue to provide records as they are ready for release on a regular rolling basis.

Secondly, we note that you had defined a record as follows. This paragraph does not mention or include text or IM. And therefore was not included in the search.

“The term “record” means any medium of information storage (e.g., document, file, email, email chain, etc.) maintained by an agency in any format, including electronic format, at the time the agency begins its search. This request seeks the entirety of any record even if only a portion of that record contains responsive material. That is, the entire medium of information storage is responsive to this request.”

Again, if you would like text messages or IM you will need to file a new FOIA request, which you are free to do.

Stacy M. Cheney  
FOIA Contact  
NTIA  
US Dept. of Commerce

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**From:** Kevin Schmidt <[KSchmidt@afphq.org](mailto:KSchmidt@afphq.org)>  
**Sent:** Monday, November 16, 2020 3:08 PM  
**To:** Cheney, Stacy <[SCheney@ntia.gov](mailto:SCheney@ntia.gov)>  
**Cc:** Moreno, Diana <[dmoreno@ntia.gov](mailto:dmoreno@ntia.gov)>; Coley, Andrew <[acoley@ntia.gov](mailto:acoley@ntia.gov)>  
**Subject:** RE: NTIA FOIA 20-071

Apologies for the delay on the address. I'm told we have someone in the office to receive mail. Please keep sending productions to the original address (1310 North Courthouse Road) if they cannot be sent via e-mail.

I'm reattaching our original request which sought all communications. There is no reference to seeking only e-mail records:

"Pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, AFPF requests all communications sent to or from either National Telecommunications and Information Administration ("NTIA") Senior Advisor Nathan Simington or Acting Assistant Secretary of Commerce for Communications and Information Adam Candeub that contain any of the following keywords or phrases:"

This matches the same language in the your clarification confirmation e-mail from September 18 in this e-mail thread. Therefore, the request covers text messages and IMs.

Lastly, you mention that this is the 2nd batch of records. Can you tell me how many more records after this batch we can expect to receive and when?

Thank you,  
Kevin

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**From:** Cheney, Stacy <[SCheney@ntia.gov](mailto:SCheney@ntia.gov)>  
**Sent:** Monday, November 16, 2020 2:36 PM  
**To:** Kevin Schmidt <[KSchmidt@afphq.org](mailto:KSchmidt@afphq.org)>  
**Cc:** Moreno, Diana <[dmoreno@ntia.gov](mailto:dmoreno@ntia.gov)>; Coley, Andrew <[acoley@ntia.gov](mailto:acoley@ntia.gov)>; Cheney, Stacy <[SCheney@ntia.gov](mailto:SCheney@ntia.gov)>  
**Subject:** RE: NTIA FOIA 20-071

Mr. Schmidt,

The 2<sup>nd</sup> batch of files are ready to go out, but we have still not received your home address. Please send that to us know right away, otherwise we will be sending the 2<sup>nd</sup> batch to your address on file.

As to your other question, regarding text messages and IM, your request only specified email, it did not specify text and IM. If you would like to request text messages and IM, you will need to file another FOIA request for those records.

Stacy.

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**From:** eFOIA  
**Sent:** Thursday, November 12, 2020 11:54 AM  
**To:** 'Kevin Schmidt' <[KSchmidt@afphq.org](mailto:KSchmidt@afphq.org)>  
**Cc:** Moreno, Diana <[dmoreno@ntia.gov](mailto:dmoreno@ntia.gov)>; Coley, Andrew <[acoley@ntia.gov](mailto:acoley@ntia.gov)>  
**Subject:** RE: NTIA FOIA 20-071

Mr. Schmidt,

Thank you for confirming receipt of the first interim response. Please let us know the address you would like the next batch sent. We are reviewing and finalizing the 2<sup>nd</sup> batch, which should go out shortly.

Thank you.

Stacy.

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**From:** Kevin Schmidt <[KSchmidt@afphq.org](mailto:KSchmidt@afphq.org)>  
**Sent:** Tuesday, November 10, 2020 12:14 PM  
**To:** eFOIA <[eFOIA@ntia.gov](mailto:eFOIA@ntia.gov)>  
**Cc:** Moreno, Diana <[dmoreno@ntia.gov](mailto:dmoreno@ntia.gov)>; Coley, Andrew <[acoley@ntia.gov](mailto:acoley@ntia.gov)>  
**Subject:** RE: NTIA FOIA 20-071

Thank you for sending the first interim production in response to this request. I have a few questions.

1. Would it be possible to e-mail the next and future productions? Or if the files are too large and need to be mailed, can I give you my home address? Our office is still closed.
2. When should we expect the next production?

Thank you so much for the quick help on this request.

Kevin Schmidt  
Director of Investigations  
Americans for Prosperity Foundation  
1310 North Courthouse Road, 7<sup>th</sup> Floor

Arlington, VA 22201  
[kschmidt@afphq.org](mailto:kschmidt@afphq.org)  
571-329-4234

AFPF



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**From:** eFOIA <[eFOIA@ntia.gov](mailto:eFOIA@ntia.gov)>  
**Sent:** Monday, October 5, 2020 5:02 PM  
**To:** Kevin Schmidt <[KSchmidt@afphq.org](mailto:KSchmidt@afphq.org)>  
**Cc:** Moreno, Diana <[dmoreno@ntia.gov](mailto:dmoreno@ntia.gov)>; Coley, Andrew <[acoley@ntia.gov](mailto:acoley@ntia.gov)>  
**Subject:** RE: NTIA FOIA 20-071

Mr. Schmidt,

Attached is the letter addressing your fee waiver request.

Stacy M. Cheney  
FOIA Contact  
NTIA  
US Dept. of Commerce

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**From:** Kevin Schmidt <[KSchmidt@afphq.org](mailto:KSchmidt@afphq.org)>  
**Sent:** Friday, September 18, 2020 2:59 PM  
**To:** eFOIA <[eFOIA@ntia.gov](mailto:eFOIA@ntia.gov)>  
**Cc:** Moreno, Diana <[dmoreno@ntia.gov](mailto:dmoreno@ntia.gov)>; Coley, Andrew <[acoley@ntia.gov](mailto:acoley@ntia.gov)>  
**Subject:** RE: NTIA FOIA 20-071

Thank you for calling to discuss. I am confirming the modified request below per our phone call.

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**From:** eFOIA <[eFOIA@ntia.gov](mailto:eFOIA@ntia.gov)>  
**Sent:** Friday, September 18, 2020 2:51 PM  
**To:** Kevin Schmidt <[KSchmidt@afphq.org](mailto:KSchmidt@afphq.org)>  
**Cc:** Moreno, Diana <[dmoreno@ntia.gov](mailto:dmoreno@ntia.gov)>; Coley, Andrew <[acoley@ntia.gov](mailto:acoley@ntia.gov)>  
**Subject:** RE: NTIA FOIA 20-071

Mr. Schmidt,

Thank you for clarifying your request. As we discussed, your modified request is as follows:

AFPF requests all communications sent to or from either National Telecommunications and Information Administration ("NTIA") Senior Advisor Nathan Simington or Acting Assistant Secretary of Commerce for Communications and Information Adam Candeub that contain the following key phrases:

- o Section 230 and any of the following terms:
  - o AT&T
  - o Federal Communications Commission or FCC
  - o Rick Lane
  - o Brendan Carr
  - o Mike Davis
  - o DCI
  - o Media Research Center or MRC
  - o Brent Bozell
  - o Rachael Bovard
  - o Dan Gainor
  - o Emily Covington

The time period for this request is May 1, 2020, to [present] Sept. 17, 2020.

Take a look and see if these changes are correct. Make any further adjustments as needed. I will await your confirmation.

Stacy Cheney

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**From:** Kevin Schmidt <[KSchmidt@afphq.org](mailto:KSchmidt@afphq.org)>  
**Sent:** Friday, September 18, 2020 12:40 PM  
**To:** eFOIA <[eFOIA@ntia.gov](mailto:eFOIA@ntia.gov)>  
**Cc:** Moreno, Diana <[dmoreno@ntia.gov](mailto:dmoreno@ntia.gov)>; Coley, Andrew <[acoley@ntia.gov](mailto:acoley@ntia.gov)>  
**Subject:** RE: NTIA FOIA 20-071

Thank you for the update and acknowledgement.

Have a good weekend,

Kevin Schmidt  
Director of Investigations  
Americans for Prosperity Foundation  
1310 North Courthouse Road, 7<sup>th</sup> Floor  
Arlington, VA 22201  
[kschmidt@afphq.org](mailto:kschmidt@afphq.org)  
571-329-4234

AFPF



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**From:** eFOIA <[eFOIA@ntia.gov](mailto:eFOIA@ntia.gov)>  
**Sent:** Friday, September 18, 2020 12:39 PM

**To:** Kevin Schmidt <[KSchmidt@afphq.org](mailto:KSchmidt@afphq.org)>

**Cc:** Moreno, Diana <[dmoreno@ntia.gov](mailto:dmoreno@ntia.gov)>; Coley, Andrew <[acoley@ntia.gov](mailto:acoley@ntia.gov)>

**Subject:** RE: NTIA FOIA 20-071

Mr. Schmidt,

The National Telecommunications and Information Administration (NTIA) is in receipt of your Freedom of Information Act (FOIA) request. NTIA has assigned this matter the following for internal tracking purposes: NTIA FOIA 20-071.

At this point, NTIA does not have any questions. But questions may arise as we proceed.

If you have any questions, feel free to let us know. You can contact me directly at [scheney@ntia.gov](mailto:scheney@ntia.gov).

Stacy M. Cheney  
FOIA Contact  
NTIA  
US Dept. of Commerce

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**From:** Kevin Schmidt <[KSchmidt@afphq.org](mailto:KSchmidt@afphq.org)>

**Sent:** Thursday, September 17, 2020 11:06 AM

**To:** eFOIA <[eFOIA@ntia.gov](mailto:eFOIA@ntia.gov)>

**Subject:** FOIA Request

Good morning,

Please find attached FOIA request.

Let me know if you have any questions.

Kevin Schmidt  
Director of Investigations  
Americans for Prosperity Foundation  
1310 North Courthouse Road, 7<sup>th</sup> Floor  
Arlington, VA 22201  
[kschmidt@afphq.org](mailto:kschmidt@afphq.org)  
571-329-4234

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