

EXHIBIT A

**The Protect -
Democracy
Project**

August 14, 2019

Via E-mail to foia@hq.dhs.gov
Chief Privacy Officer/Chief FOIA Officer
The Privacy Office
U.S. Department of Homeland Security
245 Murray Lane SW, STOP-0655
Washington, D.C. 20528-0655
Phone: 202-343-1743 or 866-431-0486
Fax: 202-343-4011
E-mail: foia@hq.dhs.gov

Via E-mail to I&AFOIA@hq.dhs.gov
FOIA Officer/Requester Service Center Contact
Under Secretary, Office of Intelligence & Analysis
U.S. Department of Homeland Security
Washington, D.C. 20528
Phone: 202-447-3783

Via E-mail to CRCL@dhs.gov
Office of Civil Rights and Civil Liberties (CRCL)
FOIA Officer/Public Liaison,
U.S. Department of Homeland Security
Washington, DC 20528
Phone: 202-357-1218

Via E-mail to NPPD.FOIA@dhs.gov
Acting FOIA Officer Angela Washington
Cybersecurity and Information Security Agency (CISA)
U.S. Department of Homeland Security
Washington, D.C. 20528
Phone: 703-235-2211

Via eFOIPA portal
ATTN: FOI/PA Request
Federal Bureau of Investigation
Attn: FOI/PA Request
Record/Information Dissemination Section
170 Marcel Drive
Winchester, VA 22602-4843
Phone: (540) 868-1535
E-mail: foipaquestions@fbi.gov

Via E-mail to MRUFOIA.Requests@usdoj.gov

ATTN: FOIA Request
FOIA/PA Mail Referral Unit
Department of Justice
Room 115
LOC Building
Washington, DC 20530-0001
Phone: (202) 616-3837

Re: Freedom of Information Act request **with expedited processing**

To Whom It May Concern:

The federal government currently maintains at least two programs aimed at discovering the online activity of malign foreign actors seeking to interfere in U.S. democracy, and there is no information in the public domain about how these programs protect the political speech of Americans.

The Foreign Influence Task Force (FITF) within the Federal Bureau of Investigations (FBI) engages in investigations, information and intelligence sharing, and private sector partnerships.¹ FBI Director Christopher Wray recently testified before the Senate Judiciary Committee both that foreign influence operations “continue to use false personas and fabricated stories on social media platforms to discredit U.S. individuals and institutions” and that the Foreign Influence Task Force remains “focused on information and intelligence-sharing” in this space.² The Countering Foreign Influence (CFI) Subcommittee of the Homeland Security Advisory Council, within the Department of Homeland Security (DHS) defines a category of “False Information Operations” as the deliberate use of “false narrative through traditional media and social media outlets to manipulate and mislead the population and the weaponization of information to undermine organizations, democratic processes, or to polarize divisions.”³ The subcommittee’s interim report recently found that “during and between elections, foreign actors have been active on social media spreading inaccurate information”⁴ and recommends that DHS “identify and establish departmental intelligence and analysis requirements” on these issues.⁵ The mandates of both agencies thus include surveilling online political speech, and the potential for surveillance of speech by U.S. persons is clear.

¹ *Combating Foreign Influence*, Federal Bureau of Investigation, <https://www.fbi.gov/investigate/counterintelligence/foreign-influence> (last visited Aug. 13, 2019).

² *Oversight of the Federal Bureau of Investigation*, Hearing Before the Committee on the Judiciary, 116th Cong. § 1 (2019) (Statement of Christopher Wray, Director of the FBI), available at <https://www.judiciary.senate.gov/imo/media/doc/Wray%20Testimony1.pdf> [hereinafter, “Statement of Christopher Wray”].

³ Homeland Security Advisory Council, *Interim Report to the Countering Foreign Influence Subcommittee* (May 21, 2019), at 13, available at https://www.dhs.gov/sites/default/files/publications/ope/hsac/19_0521_final-interim-report-of-counterintelligence-subcommittee.pdf.

⁴ *Id.* at 28.

⁵ *Id.* at 29.

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, The Protect Democracy Project hereby requests that your office produce within 20 business days the following records concerning efforts to counter or combat foreign influence campaigns by Russia, North Korea, or China or any other nation online.

1. All records generated as a result of such efforts and shared with any state, local, tribal, or territorial government; any foreign government; or any U.S. technology company;
2. All records discussing the segregation of information concerning U.S. persons analyzed during the course of such efforts;
3. All policies, guidance, procedures, directives, advisories, memoranda, and/or legal opinions pertaining to the agency's justification for such efforts or guiding their operation;
4. All records discussing rules or guidelines for compliance with 28 CFR Part 23;
5. All intelligence assessments generated as a result of such efforts;
6. All unclassified intelligence products generated as a result of such efforts; and
7. Records describing the processing of this request, including records sufficient to identify search terms used and locations and custodians searched, and any tracking sheets used to track the processing of this request. If your agency uses FOIA questionnaires or certifications completed by individual custodians or components to determine whether they possess responsive materials or to describe how they conducted searches, we also request any such records prepared in connection with the processing of this request.

We are seeking records generated on or after January 1, 2016. We ask that you search for records from all components of the Department of Justice and the Department of Homeland Security that may be reasonably likely to produce responsive results, including but not limited to those enumerated above.

With respect to the form of production, see 5 U.S.C. § 552(a)(3)(B), Protect Democracy requests that responsive electronic records be provided electronically in their native file format, if possible. Alternatively, Protect Democracy requests that the records be provided electronically in a text-searchable, static image format (PDF), in the best image quality in the agency's possession, and that the records be provided in separate, Bates-stamped files.

EXPEDITED PROCESSING REQUEST

We request that you expedite the processing of this request pursuant to 5 U.S.C. § 552(a)(6)(E) and 6 C.F.R. § 5.5(e)(1)(ii) [DHS]. This request meets the criteria for expedited processing because there is "[a]n urgency to inform the public about an actual or alleged federal

government activity” and the request is “made by a person who is primarily engaged in disseminating information.” 6 C.F.R. § 5.5(e)(1)(ii) [DHS].

The Protect Democracy Project intends to disseminate the information obtained in response to this request. As the District Court for the District of Columbia “easily” determined in litigation in a separate FOIA request, “Protect Democracy satisfied these standards” of being “primarily engaged in disseminating information.” *Protect Democracy Project, Inc. v. U.S. Dep’t of Def.*, 263 F. Supp. 3d 293, 298 (D.D.C. 2017). Indeed, The Protect Democracy Project has routinely demonstrated the ability to disseminate information about its FOIA requests to a wide audience.⁶ The Protect Democracy Project will disseminate information and analysis about this request – and any information obtained in response – through its website (protectdemocracy.org); its Twitter feed (@protctdemocracy), which has more than 14,000 followers; its email list of approximately 25,000 people; and by sharing information with other members of the press.

Moreover, these records are urgently needed to inform the public about actual or alleged government activity. *See* 5 U.S.C. § 552(a)(6)(E)(v)(II). Specifically, the requested records relate to the federal government’s use of social media surveillance to monitor political speech, potentially including speech by U.S. persons. Such surveillance would impact the more than 70% of Americans who use social media.⁷ FBI Director Christopher Wray recently testified before the Senate Judiciary Committee both that foreign influence operations “continue to use false personas and fabricated stories on social media platforms to discredit U.S. individuals and institutions” and that the Foreign Influence Task Force remains “focused on information and intelligence-sharing” in this space.⁸

It is therefore incumbent upon the government and urgent for your office to share any responsive records in an expedited fashion because that is the only way in a democracy for citizens and other branches of government to assess the actions that have been made.

Under penalty of perjury, I hereby affirm that the foregoing is true and correct to the best of my knowledge and belief. *See* 5 U.S.C. § 552(a)(6)(E)(vi).

⁶ *See, e.g.*, Lisa Rein, *Watchdog Group, Citing “Integrity of Civil Service,” Sues Trump to Find Out if Feds Are Being Bullied*, Wash. Post (Apr. 27, 2017), <https://www.washingtonpost.com/news/powerpost/wp/2017/04/27/watchdog-group-citing-integrity-of-civil-service-sues-trump-to-find-out-if-feds-are-being-bullied/>; Ben Berwick, *Going to Court for Civil Servants*, Take Care (April 28, 2017), <https://takecareblog.com/blog/going-to-court-for-civil-servants>; Charlie Savage, *Watchdog Group Sues Trump Administration, Seeking Legal Rationale Behind Syria Strike*, N.Y. Times (May 8, 2017), <https://nyti.ms/2pX82OV>; Justin Florence, *What’s the Legal Basis for the Syria Strikes? The Administration Must Acknowledge Limits on its Power to Start a War*, Lawfare (May 8, 2017), <https://www.lawfareblog.com/whats-legal-basis-syria-strikes-administration-must-acknowledge-limits-its-power-start-war>; Allison Murphy, *Ten Questions for a New FBI Director*, Take Care (June 6, 2017), <https://takecareblog.com/blog/ten-questions-for-a-new-fbi-director>.

⁷ *Social Media Fact Sheet*, Pew Research Center, <https://www.pewinternet.org/fact-sheet/social-media/> (last visited Aug. 14, 2019).

⁸ Statement of Christopher Wray, *supra* note 2.

FEE WAIVER

FOIA provides that any fees associated with a request are waived if “disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.” 5 U.S.C. § 552(a)(4)(A)(iii). The core mission of The Protect Democracy Project, a 501(c)(3) organization, is to inform public understanding on operations and activities of the government. That mission includes the gathering and dissemination of information, like that sought here, that is likely to contribute significantly to the public understanding of executive branch operations and activities. The Protect Democracy Project has no commercial interests.

In addition to satisfying the requirements for a waiver of fees associated with the search and processing of records, The Protect Democracy Project is entitled to a waiver of all fees except “reasonable standard charges for document duplication.” 5 U.S.C. § 552(a)(4)(A)(ii)(II). Federal law mandates that fees be limited to document duplication costs for any requester that qualifies as a representative of the news media. *Id.* Protect Democracy meets the statutory and regulatory definitions of a representative of the news media” because it is an “entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience.” *See* 5 U.S.C. § 552(a)(4)(A)(ii)(III); *see also Nat’l Sec. Archive v. DOD*, 880 F.2d 1381, 1387 (D.C. Cir. 1989) (finding that an organization that gathers information, exercises editorial discretion in selecting and organizing documents, “devises indices and finding aids,” and “distributes the resulting work to the public” is a “representative of the news media” for purposes of the FOIA). The Protect Democracy Project will disseminate information and analysis about this request – and any information obtained in response – through its website, where it maintains a dedicated page for information obtained through FOIA requests (<https://protectdemocracy.org/tag/foia/>) and where it directs members of the public to particularly significant documents obtained as a result of those requests. It will also disseminate information through its email newsletter and Twitter feed.

Thus, the Protect Democracy Project operates in the tradition of 501(c)(3) good government organizations that qualify under FOIA as “news media organizations.” *See, e.g., Cause of Action v. IRS*, 125 F. Supp. 3d 145 (D.C. Cir. 2015); *Elec. Privacy Info. Ctr. v. Dep’t of Def.*, 241 F. Supp. 2d 5, 10–15 (D.D.C. 2003) (finding non-profit public interest group that disseminated an electronic newsletter and published books was a “representative of the news media” for purposes of the FOIA); *Nat’l Sec. Archive*, 880 F.2d at 1387; *Judicial Watch, Inc. v. DOJ*, 133 F. Supp. 2d 52, 53–54 (D.D.C. 2000) (finding Judicial Watch, self-described as a “public interest law firm,” a news media requester). Like those organizations, the purpose of The Protect Democracy Project is to “gather information of potential interest to a segment of the public, use its editorial skills to turn the raw materials into distinct work, and distribute that work to an audience.” *Nat’l Sec. Archive v. Dep’t of Defense*, 880 F.2d 1381, 1387 (D.C. Cir. 1989). And, as mentioned above, a federal court has found that The Protect Democracy Project is “primarily engaged in disseminating information.” *Protect Democracy Project, Inc. v. U.S. Dep’t of Def.*, 263 F. Supp. 3d 293, 298 (D.D.C. 2017). Accordingly, it is entitled to a fee waiver.

RESPONSIVE RECORDS

We ask that all types of records and all record systems be searched to discover records responsive to our request. We seek records in all media and formats. This includes, but is not limited to: agendas, manifests, calendars, schedules, notes, and any prepared documentation for meetings, calls, teleconferences, or other discussions responsive to our request; voicemails; e-mails; e-mail attachments; talking points; faxes; training documents and guides; tables of contents and contents of binders; documents pertaining to instruction and coordination of couriers; and any other materials. However, you need not produce press clippings and news articles that are unaccompanied by any commentary (e.g., an email forwarding a news article with no additional commentary in the email thread).

We also ask that you search all systems of records, including electronic and paper, in use at your agency, as well as files or emails in the personal custody of your employees, such as personal email accounts, as required by FOIA and to the extent that they are reasonably likely to contain responsive records. The Protect Democracy Project would prefer records in electronic format, saved as PDF documents, and transmitted via email or CD-ROM.

If you make a determination that any responsive record, or any segment within a record, is exempt from disclosure, we ask that you provide an index of those records at the time you transmit all other responsive records. In the index, please include a description of the record and the reason for exclusion with respect to each individual exempt record or exempt portion of a record, as provided by *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973), cert. denied, 415 U.S. 977 (1974). When you deem a portion of a record exempt, we ask that the remainder of the record to be provided, as required by 5 U.S.C. § 552(b).

Given the 20-day statutory deadline, we hope to be as helpful as possible in clarifying or answering questions about our request. Please contact me at rachel.goodman@protectdemocracy.org or 202.997.0599 if you require any additional information. We appreciate your cooperation and look forward to hearing from you very soon.

Sincerely,



Rachel E. Goodman
Counsel
The Protect Democracy Project