



Charlotte M. Luckstone
FOIA Officer, U.S. Marshals Service
Office of General Counsel
CG-3 15th Floor
U.S. Marshals Service Headquarters
Washington, D.C., 20530-0001
Via attachment in online USMS FOIA portal

Jan. 29, 2023

Dear Ms. Luckstone:

On Dec. 29, 2022, President Biden signed into law the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023 (Public Law 117-263), which made it possible for federal judges and Supreme Court justices to request the removal of “covered information” from the Internet (i.e., what are commonly called “take-down requests” or, given the penalties authorized by the law, “take-down orders”).

Earlier in the year, on Mar. 15, President Biden signed the Consolidated Appropriations Act, 2022 (Public Law 117–103), which permitted federal agencies and subagencies to “pursu[e] the voluntary redaction and reduction [of judges’ and justices’] personally identifiable information from the Internet.”

This FOIA request, submitted on behalf of nonprofit organization Fix the Court, seeks to identify the extent to which these tools have been used by judges, justices and the U.S. Marshals Service in the last several months.

(Though “personally identifiable information” was not defined in the March law, “covered information” was defined in Section 5933(2) of the December law, and I use both terms below.)

This request seeks:

1. A list of every request the U.S. Marshals Service received from a U.S. judge or justice or their designee(s) between March 15, 2022, and January 29, 2023, to pursue and carry out take-down requests of covered information or personally identifiable information from the Internet that includes the date the request was submitted and employing court of the judge or justice for whom the request was made;
2. A list of every request the U.S. Marshals Service received from the Director of the Administrative Office of the United States Courts (AO), or from any judiciary employee who reports to the AO Director, between March 15, 2022, and January 29, 2023, to pursue and carry out take-down requests of covered information or personally identifiable information from the Internet that includes the date the request was submitted and employing court of the judge or justice for whom the request was made;
3. A list of every request the U.S. Marshals Service received from chief judges of U.S. courts between March 15, 2022, and January 29, 2023, to pursue and carry out take-down requests of covered information or personally identifiable information from the Internet that includes the date the request was submitted and employing court of the judge or justice for whom the request was made;
4. For each take-down request, whether it was complied with within 72 hours and, if complied with, the URL on which the covered information or personally identifiable information had appeared;
5. A copy of any request for injunctive or declaratory relief that the AO Director, anyone who reports to the AO Director or any chief judge filed with the Department of Justice between December 29, 2022, and January 29, 2023, for noncompliance with the removal provisions of Section 5934 of Public Law 117-263;

6. An itemized USMS budget for FY22, FY23 and FY24 that includes a line item for the amount of money USMS has spent or expects to spend to (a) monitor the Internet for U.S. judges' and justices' covered information; (b) work with the judiciary and its personnel on pursuing take-down requests; and (c) hire private contractors to assist in carrying out (a) and (b);

7. The identity of any private contractor, and the terms of the contract, that the USMS has hired in the last 36 months to assist with the redaction and reduction of judges' and justices' covered information or personally identifiable information from the Internet; and

8. Copies of any emails between USMS Director Ron Davis (ronald.davis@usdoj.gov), former USMS Director Don Washington (donald.washington@usdoj.gov), USMS Deputy Director (and former Associate Director) Roberto Robinson (roberto.robinson@usdoj.gov), former USMS Deputy Director Jeff Tyler (jeffrey.tyler@usdojb.gov), USMS Assistant Director Jennifer Armstrong (jennifer.armstrong@usdoj.gov), or USMS Chief of Congressional Affairs Bill Delaney (william.delaney@usdoj.gov) and any sender or recipient, including in the CC or BCC line, with an email address ending in "uscourts.gov" between Sept. 1, 2021, and Jan. 29, 2023, that includes the term(s) "redact," "redaction," "reduce," "reduction," "identifiable," "judge," "judges" or "DeleteMe".

As Fix the Court is a 501(c)(3) nonprofit organization, and in light of the regular publication and dissemination activities in which it engages, I ask that any fees that may be associated with this FOIA be waived. It is not for commercial purposes, and the release of the information requested is not in Fix the Court's financial interest, given that our mission is to promote transparency in the federal judiciary.

If my request is denied in whole or in part, I ask that you justify all withholdings and deletions by reference to specific exemptions of the law.

Sincerely,
Gabe Roth
Fix the Court executive director
Gabe@FixTheCourt.com