

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

HERITAGE FOUNDATION.,
214 Massachusetts Ave. N.E.
Washington, D.C. 20002

MIKE HOWELL
214 Massachusetts Ave. N.E.
Washington, D.C. 20002
Plaintiffs,

v.

Case No. 22-cv-1969

U.S. DEPARTMENT OF HOMELAND
SECURITY
2707 Martin Luther King Jr., Ave., S.E.
Washington, D.C. 20528
Defendant.

COMPLAINT AND PRAYER FOR DECLARATORY AND INJUNCTIVE RELIEF

Plaintiffs THE HERITAGE FOUNDATION and MIKE HOWELL (collectively “Heritage”) for their complaint against Defendant DEPARTMENT OF HOMELAND SECURITY (“DHS”) allege on knowledge as to Plaintiffs, and on information and belief as to all other matters, as follows:

1. This is an action under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, to compel the production of records related to DHS’s use of a program, Babel X, to surveil some unknown segment of the American public. Limited information about Babel X is publicly available. What is known is that it scrapes (retrieves and copies) data both from online sources and from “apps” running on the smartphones and other devices of billions of individuals

worldwide. That data can then be aggregated and dynamically searched by any number of keywords and in many languages.

2. The purpose for which the Federal Government utilizes these types of programs has long been the subject of debates over privacy and government surveillance. Today, Plaintiffs simply seeks to know more about the Government's use of one such program. Plaintiffs have exhausted their administrative remedies and have no recourse but to file this lawsuit.

PARTIES

3. Plaintiff, The Heritage Foundation is a Washington, D.C.-based nonpartisan think tank with a national and international reputation whose mission is to “formulate and promote public policies based on the principles of free enterprise, limited government, individual freedom, traditional American values, and a strong national defense.” Heritage Foundation, *About Heritage*, <https://www.heritage.org/about-heritage/mission> (last visited July 7, 2022). Heritage is a not-for-profit section 501(c)(3) organization which engages in substantial dissemination of information to the public. Heritage operates a national news outlet, *The Daily Signal*.

4. Plaintiff Mike Howell heads the Heritage Foundation's Oversight Project and is an author for *The Daily Signal*. The Oversight Project is an initiative aimed at obtaining information via Freedom of Information Act requests and other means in order to best inform the public and Congress for the purposes of Congressional oversight. The requests and analysis of information is informed by Heritage's deep policy expertise. For example, former Acting Customs and Border Protection Commissioner Mark Morgan and former Acting Immigration and Customs Enforcement Director Tom Homan are Visiting Fellows with The Heritage

Foundation and draw on their experience and expertise to analyze information. They also use their broad public engagement to inform the general public.

5. Defendant DHS is a federal agency of the United States within the meaning of 5 U.S.C. § 552(f)(1) whose mission statement is “[w]ith honor and integrity, we will safeguard the American people, our homeland, and our values.” *Department of Homeland Security, About DHS*, <https://www.dhs.gov/mission> (last visited July 7, 2022).

JURISDICTION AND VENUE

6. This Court has jurisdiction pursuant to 5 U.S.C. § 552(a)(4)(B) because this action is brought in the District of Columbia and 28 U.S.C. § 1331 because the resolution of disputes under FOIA presents a federal question.

7. Venue is proper in this Court under 28 U.S.C. § 1391(b) because Defendant DHS’s principal place of business is in the District of Columbia.

FACTUAL BACKGROUND

8. Babel X is a product sold by the firm Babel Street. Only limited information is available regarding Babel Street and this product.

9. Babel Street’s website lists the headline function of Babel X as: “Discover and decipher geographically diverse, multilingual data into actionable insights in real time.” *See* <https://www.babelstreet.com/platform/babel-x#contact> (last visited July 7, 2022). The product is further described as follows:

Babel X enables teams to derive relevant insights by canvassing the world of publicly available and commercially available information across more than 200 languages and then filtering by a wide range of analytical lenses including geospatial, temporal, link analysis, public records search, sentiment, and topics of interest. All insights are presented on a single pane of glass for analysis and collaboration across teams.

Id. The website then gives a series of more specific uses for the platform:

- **“Conduct persistent cross-lingual search** and discovery across multiple data sources with advanced statistical and crowd-sourcing techniques.” *Id.*
- **“Decipher relevant insights across 200+ languages** with state-of-the-art, linguistics technology.” *Id.*
- **“Perform sentiment analysis** in 50+ major world languages.” *Id.*
- **“Filter by a wide range of variables** including keywords, hashtags, language, authors, emojis, dates/times, regular expression.” *Id.*
- **“Conduct ad-hoc research** for in-depth insight on entities.” *Id.*
- **“Analyze themes, entities, and categories** as well as detect relationships.” *Id.*
- **“Power your mission** by integrating all available data on a single platform.” *Id.*

10. As explained by *The Washington Post*, the Babel X software allows Babel X to “scrape” (retrieve and copy) data from any number of sources that are technically public. Aaron Greg, *For this Company, Online Surveillance Leads to Profits in Washington’s Suburbs*, Wash. Post (Sept. 10, 2017). Sources appear to include any number of social media sites and programs as well as data collected every day “in the background” by “apps” on billions of smartphones and other devices worldwide. *Id.* This collection is continuous and on a huge scale. As Babel Street founder Jeff Chapman put it, “[t]here are billions of smartphones on the planet. . . . All you have to do is listen to them.” *Id.* (internal quotation omitted).¹ That data in turn is then aggregated and analyzed by the Babel X program. Keyword searches can then be run dynamically across the data as frequently as desired and in many languages (even “emoji”). *Id.* For example, a police department investigating a crime in a neighborhood could search for and then review social media posts in that neighborhood at a certain time. *Id.*

11. *The Washington Post* reported that starting in at least 2017, privacy advocates raised concerns with Babel X. *Id.* Babel Street in turn commented that they have stringent controls in place and in fact give less data to users with “arrest powers” due to privacy concerns. *Id.*

¹ Babel Street clarified to *The Washington Post* that it does not actually listen to phone calls. *Id.*

12. The Babel X product appears to be widely used by law enforcement. For example, in 2019, the Department of Justice granted Babel Street a \$5 million contract with an option for up to \$27 million for Babel X licenses. Aaron Schaffer, *The FBI is Spending Millions on Social Media Tracking Software*, Wash. Post (Apr. 5, 2022). This contract provides for the FBI to received 5,000 licenses for the Babel X product. *Id.* The relevant contracting documents indicate that the FBI solicited for a product that was able to gather and analyze information from the dark web and a number of common applications, such as Twitter, Facebook, YouTube, and Snapchat. *Id.* The FBI expects to run 20,000 discrete keyword searches a month through the collected data. *Id.* The FBI contracting documents stated that the FBI’s “intent” was to look at past events, but that “predictive analytics” that would allow the FBI to “point to possible actions of a subject or group” were “desirable.” *Id.* (internal quotation marks omitted).

13. Some privacy advocates suggest these searches will be run as often as every 8 minutes. Tim Cushin, *The FBI Wants to be Your Facebook Friend*, TechDirt (Apr. 14, 2022).

14. This contract drew substantial concern from privacy advocates who fear the Babel X tool will be used for suspicionless monitoring of individuals who are disfavored by the current Administration or will result in the government taking action on incomplete and ultimately inaccurate information derived from social media.² See Brian Stone, *FBI Investing Millions in Software to Monitor Social Media Platforms*, Tech Republic (Apr. 6, 2022); Aaron Schaffer, *The FBI is Spending Millions on Social Media Tracking Software*, Wash. Post (Apr. 5, 2022).

² Social media structurally often does not permit nuance and in some platforms language that is controversial or provocative by design is the norm.

15. DHS has purchased and continues to purchase a large number of Babel X products and uses those products for a variety of functions. It appears from [usaspending.gov](https://www.usaspending.gov) the Babel X license are used for the advertised applications discussed, *supra* ¶¶ 9–10. *See, e.g.*, Award 70T02021F7554N002, *found at* https://www.usaspending.gov/award/CONT_AWD_70T02021F7554N002_7013_HSHQDC12D00013_7001 (last visited July 7, 2022). Heritage understands DHS uses Babel X to monitor unknown entities, groups, and individuals in a manner similar to that of the FBI.³

PLAINTIFF’S FOIA REQUEST

16. On April 18, 2022, Plaintiffs filed a FOIA request via PAL seeking three categories of information relating to DHS and Babel Street Products. *See* FOIA Request (Apr. 18, 2022) (the “Request” or Plaintiffs’ FOIA Request”) (Ex. 1).

17. *First*, the Request sought all documents and communications from January 21, 2021 to March 31, 2022 containing: (1) the terms “Babel”; Babel X”; “Babel Street”; or

³ In March of 2020 a press report revealed that DHS components U.S. Customs and Border Protection as well as the Secret Service and U.S. Immigration and Customs Enforcement were utilizing a Babel Steet program called “Locate X.” Charles Levinson, *Through App, Not Warrants, “Locate X Allows Federal Law Enforcement to Track Phones*, Protocol (Mar. 5, 2020) (“Protocol Article”). The report revealed that little was publicly known about the “Locate X” product which at the time Babel Street neither advertised nor listed on public facing documents. *Id.* It also reported that no one knows exactly what DHS used (or uses) Locate X for. *Id.*

The Protocol Article cited a source who explained that Locate X can be used to track individuals to some (unknown) extent such as by example seeing what devices were around an address at a certain time, and then tracking where else those devices then went. According to the sources Locate X did this by culling location data collected by “apps” from billions of smartphones and other devices many times a day in order to enable “app” features. *Id.* According to Terms of Use published by the General Services Administration, data from Locate X “may not be used as the basis for any legal process in any country, including as the basis for a warrant or subpoena, or any other legal or administrative action.” *Id.* Nor may the data even be “cited in any court/investigation-related document.” *Id.*

It is not clear whether Babel X incorporates the location data functions provided by the Locate X product.

“Panamerica”; and (2) that originated from the Office of the Chief Information Officer or a list of senior DHS officials. *Id.* at 1–2.⁴

18. *Second*, from January 21, 2022 to March 31, 2022 “any emails to or from” the individuals listed *supra* n. 4 “to anyone whose domain ends in @babelstreet.com.” *Id.* at 1.

⁴ The list is: “Immediate Office of the Secretary

- Alejandro Nicholas Mayorkas— Secretary of Homeland Security
- Kristie A. Canegallo—Chief of Staff
- Jeffrey Michael Rezmovic—Deputy Chief of Staff
- Alexandra Fox—Scheduler
- Samantha E. Vinograd—Senior Counselor for National Security
- Tim Maurer—Senior Counselor for Cybersecurity and Emerging Technology
- Isabella F. Ulloa—Counselor
- Milton R. Patch III—Special assistant
- Saraswati Shah—Special assistant
- Lt. Mike H. Wu—Military assistant to the secretary
- Cass R. Sunstein—Senior Counselor
- David D. Gersten—Ombudsman for Immigration Detention (Acting)
- Charanya Krishnaswami—Senior Counselor for Immigration
- Steven Feder—Chief of Protocol and Director of Scheduling and Advance
- Phillip M. Thompson—White house Liaison
- Nikhil A. Patel—White house fellow

DHS Office of Intelligence and Analysis (I&A)

- John D. Cohen—Under Secretary and Chief Intelligence Officer (Acting)
- Kenneth L. Wainstein—Under Secretary and Chief Intelligence Officer (Designate)
- Michelle Wright—EA
- Trishia Cathey-Blomquist—EA
- Amy Uislet—EA
- Eric Sanders—Chief Information Security Officer
- Tina W. Gabbrielli—Director, Counterintelligence
- Kevin Saupp, Director, Partner Engagement
- Lara Ballard, Privacy Officer
- Larry Eppenstein, Program Manager
- Robin Taylor, Deputy Under Secretary for Intelligence Enterprise Operations
- Robert Hale, Counterintelligence Program Management”

Id. at 2–3.

19. *Third*, from January 21, 2021 to April 11, 2022, “[a]ll I&A records and communications regarding the procurement, award and implementation of the award to PANAMERICA COMPUTERS, INC. regarding award 70T02021F7554N002.” *Id.* at. 1–2.

20. The Request also sought a fee waiver based on Heritage’s status as a non-profit and the fact that a purpose of the Request was to allow Heritage and Mike Howell to gather information on a matter of public interest for use by (among other things) authors of its publication, *The Daily Signal*, which is a major news outlet. *Id.* at 3–4.

DHS’s Failure to Adhere to Statutory Timelines

21. On May 19, 2022 DHS sent an acknowledgement receipt which provided the tracking number, 2022-HQFO-00905, stated DHS received the request on April 19, 2022, and made findings of “unusual circumstances” under 5 U.S.C. § 552(a)(6)(B) regarding the Request. Acknowledgement Letter, FOIA Request 2022-HQFO-00905 (May 19, 2022) (Ex. 2).

22. 30 working days from April 19, 2022 is June 1, 2022.

23. On June 13, 2022, Plaintiffs received an email from foia@hq.dhs.gov, asking Heritage if they were willing to narrow the Request because CIO conducted a search and the results came back at 2.1 GB. Email from foia@hq.dhs.gov to OversightProject@heritage.gov (June 13, 2022, 4:35 PM EST). Plaintiffs replied back on the same day, stating they are interested in all of it. Email from OversightProject@heritage.org to foia@hq.dhs.gov (June 13, 2022, 5:02 PM EST) (Ex. 3).

FIRST CLAIM FOR RELIEF

Violation FOIA, 5 U.S.C. §552

Failure to Conduct Adequate Searches for Responsive Records.

24. Plaintiffs re-allege paragraphs 1–23 as if fully set out herein.

25. FOIA requires all doubts to be resolved in favor of disclosure. “Transparency in government operations is a priority of th[e Biden] . . . Administration” Attorney General,

Memorandum for Heads of Executive Departments and Agencies: Freedom of Information Act Guidelines, at 4 (Mar. 15, 2022). Secretary of Homeland Security Alejandro N. Mayorkas has testified that “[o]ne of the hallmarks of our department is openness and transparency,”⁵ and “[w]e pride ourselves on responsiveness.”⁶

26. Plaintiffs properly requested records within the possession, custody, and control of Defendant.

27. Defendant is subject to FOIA and therefore must make reasonable efforts to search for requested records.

28. Defendant has failed to promptly review agency records for the purpose of locating and collecting those records that are responsive to Plaintiffs’ FOIA Request.

29. Defendant’s failure to conduct searches for responsive records violates FOIA and the DHS regulations.

30. Plaintiffs have a statutory right to the information they seek.

31. Defendant is in violation of FOIA.

32. Plaintiffs are being irreparably harmed by reason of Defendant’s violation of FOIA. Plaintiffs are being denied information to which they are statutorily entitled and that is important to carrying out Plaintiffs’ functions as a non-partisan research and educational institution and publisher of news. Plaintiffs will continue to be irreparably harmed unless Defendant is compelled to comply with the law.

33. Plaintiffs have no adequate remedy at law.

⁵ *Oversight of the Department of Homeland Security: Hearing Before the H. Comm on Jud.*, 117th Cong., CQ Transcript, at *27 (Apr. 28) (2022).

⁶ *A Review of the Fiscal Year 2022 Budget Request for the Department of Homeland Security: Hearing Before the H. Comm. Homeland Sec.*, 117th Cong. 47 (June 17, 2021).

34. Plaintiffs have constructively exhausted their administrative remedies.

SECOND CLAIM FOR RELIEF
Violation of FOIA, 5 U.S.C. § 552
Wrongful Withholding of Non-Exempt Responsive Records

35. Plaintiffs re-allege paragraphs 1–34 as if fully set out herein.

36. FOIA requires all doubts to be resolved in favor of disclosure. “Transparency in government operations is a priority of th[e Biden] . . . Administration” Attorney General, *Memorandum for Heads of Executive Departments and Agencies: Freedom of Information Act Guidelines*, at 4 (Mar. 15, 2022). Secretary of Homeland Security Alejandro N. Mayorkas has testified that “[o]ne of the hallmarks of our department is openness and transparency,”⁷ and “[w]e pride ourselves on responsiveness.”⁸

37. Plaintiffs properly requested records within the possession, custody, or control of Defendant.

38. Defendant is subject to FOIA, and therefore must release to a FOIA requester any non-exempt records and provide a lawful reason for withholding any records.

39. Defendant is wrongfully withholding non-exempt records requested by Heritage by failing to produce any records responsive to Plaintiffs’ FOIA Request.

40. Defendant is wrongfully withholding non-exempt-agency records requested by Plaintiffs by failing to segregate exempt information in otherwise non-exempt records responsive to Plaintiffs’ FOIA Request.

⁷ *Oversight of the Department of Homeland Security: Hearing Before the H. Comm on Jud.*, 117th Cong., CQ Transcript, at *27 (Apr. 28) (2022).

⁸ *A Review of the Fiscal Year 2022 Budget Request for the Department of Homeland Security: Hearing Before the H. Comm. Homeland Sec.*, 117th Cong. 47 (June 17, 2021).

41. Defendant's failure to provide all non-exempt responsive records violates FOIA and DHS regulations.

42. Plaintiffs have a statutory right to the information they seek.

43. Defendant is in violation of FOIA.

44. Plaintiffs are being irreparably harmed by reason of Defendant's violation of FOIA. Plaintiffs are being denied information to which they are statutorily entitled and that is important to carrying out Plaintiffs' functions as a non-partisan research and educational institution and publisher of news. Plaintiffs will continue to be irreparably harmed unless Defendant is compelled to comply with the law.

45. Plaintiffs have no adequate remedy at law.

46. Plaintiffs have constructively exhausted their administrative remedies.

WHEREFORE as a result of the foregoing, Plaintiffs pray that this Court:

- A. Order Defendant to conduct a search or searches reasonably calculated to uncover all records responsive to Plaintiffs' FOIA Request;
- B. Order Defendants to produce, within twenty days of the Court's order, or by such other date as the Court deems appropriate, any and all non-exempt records responsive to Plaintiffs' FOIA Request and indexes justifying the withholding of any responsive records withheld in whole or in part under claim of exemption;
- C. Enjoin Defendants from continuing to withhold any and all non-exempt records responsive to Plaintiffs' FOIA Request;
- D. Retain jurisdiction over this matter as appropriate;
- E. Award Plaintiffs their costs and reasonable attorneys' fees in this action as provided by 5 U.S.C. § 522(a)(4)(E); and

F. Grant such other and further relief as this Court may deem just and proper.

Dated: July 7, 2022

Respectfully submitted,

/s/ Samuel Everett Dewey

SAMUEL EVERETT DEWEY

(No. 99979)

Chambers of Samuel Everett Dewey, LLC

Telephone: (703) 261-4194

Email: samueledewey@sedchambers.com

Counsel for Plaintiffs

CIVIL COVER SHEET

JS-44 (Rev. 11/2020 DC)

I. (a) PLAINTIFFS The Heritage Foundation Mike Howell (b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF <u>11001</u> (EXCEPT IN U.S. PLAINTIFF CASES)	DEFENDANTS U.S. Department of Homeland Security COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT <u>11001</u> (IN U.S. PLAINTIFF CASES ONLY) <small>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED</small>																								
(c) ATTORNEYS (FIRMNAME, ADDRESS, AND TELEPHONE NUMBER) Samuel Everett Dewey (999979) Chambers of Samuel Everett Dewey, LLC 2200 12th Court North Apt. 609 Arlington, VA 22201 (703) 261-4194	ATTORNEYS (IF KNOWN)																								
II. BASIS OF JURISDICTION (PLACE AN x IN ONE BOX ONLY) <div style="display: flex; justify-content: space-between;"> <div style="width: 48%;"> <input type="radio"/> 1 U.S. Government Plaintiff </div> <div style="width: 48%;"> <input type="radio"/> 3 Federal Question (U.S. Government Not a Party) </div> </div> <div style="display: flex; justify-content: space-between;"> <div style="width: 48%;"> <input checked="" type="radio"/> 2 U.S. Government Defendant </div> <div style="width: 48%;"> <input type="radio"/> 4 Diversity (Indicate Citizenship of Parties in item III) </div> </div>	III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN x IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT) FOR DIVERSITY CASES ONLY! <table style="width: 100%; border: none;"> <thead> <tr> <th></th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DFT</th> <th></th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DFT</th> </tr> </thead> <tbody> <tr> <td>Citizen of this State</td> <td style="text-align: center;"><input type="radio"/> 1</td> <td style="text-align: center;"><input type="radio"/> 1</td> <td>Incorporated or Principal Place of Business in This State</td> <td style="text-align: center;"><input type="radio"/> 4</td> <td style="text-align: center;"><input type="radio"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="radio"/> 2</td> <td style="text-align: center;"><input type="radio"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td style="text-align: center;"><input type="radio"/> 5</td> <td style="text-align: center;"><input type="radio"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="radio"/> 3</td> <td style="text-align: center;"><input type="radio"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="radio"/> 6</td> <td style="text-align: center;"><input type="radio"/> 6</td> </tr> </tbody> </table>		PTF	DFT		PTF	DFT	Citizen of this State	<input type="radio"/> 1	<input type="radio"/> 1	Incorporated or Principal Place of Business in This State	<input type="radio"/> 4	<input type="radio"/> 4	Citizen of Another State	<input type="radio"/> 2	<input type="radio"/> 2	Incorporated and Principal Place of Business in Another State	<input type="radio"/> 5	<input type="radio"/> 5	Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6
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IV. CASE ASSIGNMENT AND NATURE OF SUIT

(Place an X in one category, A-N, that best represents your Cause of Action and one in a corresponding Nature of Suit)

<input type="radio"/> A. Antitrust <input type="checkbox"/> 410 Antitrust	<input type="radio"/> B. Personal Injury/Malpractice <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Medical Malpractice <input type="checkbox"/> 365 Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Product Liability	<input type="radio"/> C. Administrative Agency Review <input type="checkbox"/> 151 Medicare Act <u>Social Security</u> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <u>Other Statutes</u> <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 890 Other Statutory Actions (If Administrative Agency is Involved)	<input type="radio"/> D. Temporary Restraining Order/Preliminary Injunction Any nature of suit from any category may be selected for this category of case assignment. *(If Antitrust, then A governs)*
<input type="radio"/> E. General Civil (Other) OR <input type="radio"/> F. Pro Se General Civil			
<u>Real Property</u> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent, Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property <u>Personal Property</u> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<u>Bankruptcy</u> <input type="checkbox"/> 422 Appeal 27 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <u>Prisoner Petitions</u> <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Conditions <input type="checkbox"/> 560 Civil Detainee – Conditions of Confinement <u>Property Rights</u> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent – Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 (DTSA)	<u>Federal Tax Suits</u> <input type="checkbox"/> 870 Taxes (US plaintiff or defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609 <u>Forfeiture/Penalty</u> <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <u>Other Statutes</u> <input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 430 Banks & Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 462 Naturalization Application	<input type="checkbox"/> 465 Other Immigration Actions <input type="checkbox"/> 470 Racketeer Influenced & Corrupt Organization <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 485 Telephone Consumer Protection Act (TCPA) <input type="checkbox"/> 490 Cable/Satellite TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions (if not administrative agency review or Privacy Act)

<input type="radio"/> G. Habeas Corpus/ 2255 <input type="checkbox"/> 530 Habeas Corpus – General <input type="checkbox"/> 510 Motion/Vacate Sentence <input type="checkbox"/> 463 Habeas Corpus – Alien Detainee	<input type="radio"/> H. Employment Discrimination <input type="checkbox"/> 442 Civil Rights – Employment (criteria: race, gender/sex, national origin, discrimination, disability, age, religion, retaliation) *(If pro se, select this deck)*	<input checked="" type="radio"/> I. FOIA/Privacy Act <input checked="" type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 890 Other Statutory Actions (if Privacy Act) *(If pro se, select this deck)*	<input type="radio"/> J. Student Loan <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (excluding veterans)
<input type="radio"/> K. Labor/ERISA (non-employment) <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Labor Railway Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="radio"/> L. Other Civil Rights (non-employment) <input type="checkbox"/> 441 Voting (if not Voting Rights Act) <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 445 Americans w/Disabilities – Employment <input type="checkbox"/> 446 Americans w/Disabilities – Other <input type="checkbox"/> 448 Education	<input type="radio"/> M. Contract <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholder's Suits <input type="checkbox"/> 190 Other Contracts <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<input type="radio"/> N. Three-Judge Court <input type="checkbox"/> 441 Civil Rights – Voting (if Voting Rights Act)

V. ORIGIN
☒ 1 Original Proceeding
 ☐ 2 Removed from State Court
 ☐ 3 Remanded from Appellate Court
 ☐ 4 Reinstated or Reopened
 ☐ 5 Transferred from another district (specify)
 ☐ 6 Multi-district Litigation
 ☐ 7 Appeal to District Judge from Mag. Judge
 ☐ 8 Multi-district Litigation – Direct File

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)
 5, U.S.C. 552. Defendant has failed to comply with its obligations under FOIA.

VII. REQUESTED IN COMPLAINT	<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23	DEMAND \$ JURY DEMAND:	Check YES only if demanded in complaint YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
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VIII. RELATED CASE(S) IF ANY	(See instruction)	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	If yes, please complete related case form
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DATE: 7/7/2022	SIGNATURE OF ATTORNEY OF RECORD /s/ Samuel Everett Dewey
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INSTRUCTIONS FOR COMPLETING CIVIL COVER SHEET JS-44
 Authority for Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and services of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. Listed below are tips for completing the civil coversheet. These tips coincide with the Roman Numerals on the cover sheet.

- I.** COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF/DEFENDANT (b) County of residence: Use 11001 to indicate plaintiff if resident of Washington, DC, 88888 if plaintiff is resident of United States but not Washington, DC, and 99999 if plaintiff is outside the United States.
- III.** CITIZENSHIP OF PRINCIPAL PARTIES: This section is completed only if diversity of citizenship was selected as the Basis of Jurisdiction under Section II.
- IV.** CASE ASSIGNMENT AND NATURE OF SUIT: The assignment of a judge to your case will depend on the category you select that best represents the primary cause of action found in your complaint. You may select only one category. You must also select one corresponding nature of suit found under the category of the case.
- VI.** CAUSE OF ACTION: Cite the U.S. Civil Statute under which you are filing and write a brief statement of the primary cause.
- VIII.** RELATED CASE(S), IF ANY: If you indicated that there is a related case, you must complete a related case form, which may be obtained from the Clerk's Office.

Because of the need for accurate and complete information, you should ensure the accuracy of the information provided prior to signing the form.

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

_____)	
<i>Plaintiff</i>)	
)	
v.)	Civil Action No.
)	
_____)	
<i>Defendant</i>)	

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 30 days after service of this summons on you (not counting the day you received it) you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default may be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ANGELA D. CAESAR, CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*: _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

_____)	
<i>Plaintiff</i>)	
)	
v.)	Civil Action No.
)	
_____)	
<i>Defendant</i>)	

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 30 days after service of this summons on you (not counting the day you received it) you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default may be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ANGELA D. CAESAR, CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*: _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

_____)	
<i>Plaintiff</i>)	
)	
v.)	Civil Action No.
)	
_____)	
<i>Defendant</i>)	

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 30 days after service of this summons on you (not counting the day you received it) you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default may be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ANGELA D. CAESAR, CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*: _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Exhibit 1



214 Massachusetts Avenue, NE
Washington, DC 20002
(202) 546-4400
heritage.org

SENT VIA PAL

April 18, 2022

Privacy Office, Mail Stop 0655
Department of Homeland Security
2707 Martin Luther King Jr. AVE SE
Washington, DC 20528-065

Dear FOIA Officer,

Pursuant to the Freedom of Information Act, 5 U.S.C. § 552, and the implementing FOIA regulations of the Department of Homeland Security (DHS), I respectfully request the following records (or records containing the following information):

All documents and communications, to or from any of the individuals below regarding any of these terms:

- Babel,
- Babel X,
- Babel Street, and
- Panamerica

between January 21, 2021, through March 31, 2022.

Any emails to or from individuals below to anyone whose domain ends in @babelstreet.com between January 21, 2021, through March 31, 2022.

All I&A records and communications regarding the procurement, award and implementation of the award to PANAMERICA COMPUTERS, INC. regarding award 70T02021F7554N002, effective date, 07/01/2021, completion date, 06/30/2022 Period of Performance Potential End Date 03/30/2023, with a Potential Value of Award of \$332,365, and the funding office is



214 Massachusetts Avenue, NE
Washington, DC 20002
(202) 546-4400
heritage.org

INTELLIGENCE AND ANALYSIS 70T54X. Please limit the search from January 21, 2021, through April 11, 2022.

Any emails from the Office of the Chief Information Officer regarding any of these terms:

- Babel,
- Babel X,
- Babel Street
- Panamerica.

between January 21, 2021, through March 31, 2022.

Individuals:

Immediate Office of the Secretary

- Alejandro Nicholas Mayorkas– Secretary of Homeland Security
- Kristie A. Canegallo – Chief of Staff
- Jeffrey Michael Rezmovic - Deputy Chief of Staff
- Alexandra Fox – Scheduler
- Samantha E. Vinograd – Senior Counselor for National Security
- Tim Maurer - Senior Counselor for Cybersecurity and Emerging Technology
- Isabella F. Ulloa - Counselor
- Milton R. Patch III – Special assistant
- Saraswati Shah – Special assistant
- Lt. Mike H. Wu – Military assistant to the secretary
- Cass R. Sunstein - Senior Counselor
- David D. Gersten - Ombudsman for Immigration Detention (Acting)
- Charanya Krishnaswami - Senior Counselor for Immigration
- Steven Feder - Chief of Protocol and Director of Scheduling and Advance
- Phillip M. Thompson – White house Liaison
- Nikhil A. Patel – White house fellow

DHS Office of Intelligence and Analysis (I&A)



214 Massachusetts Avenue, NE
Washington, DC 20002
(202) 546-4400
heritage.org

- John D. Cohen - Under Secretary and Chief Intelligence Officer (Acting)
- Kenneth L. Wainstein - Under Secretary and Chief Intelligence Officer – designate
- Michelle Wright – EA
- Trishia Cathey-Blomquist – EA
- Amy Uislet -EA
- Eric Sanders - Chief Information Security Officer
- Tina W. Gabbrielli- Director, Counterintelligence
- Kevin Saupp, Director, Partner Engagement
- Lara Ballard, Privacy Officer
- Larry Eppenstein, Program Manager
- Robin Taylor, deputy Under Secretary for Intelligence Enterprise Operations
- Robert Hale, Counterintelligence Program Management

Any communications includes all locations likely to contain communications, including correspondence files, appropriate locations on hard drives and shared drives, emails, calendar entries, or invitations, text messages or other direct messaging systems (such as iMessage, Microsoft Teams, WhatsApp, Google Chat, Signal, or Twitter direct messages), voicemail messages, instant messaging systems such as Lync and shared messages systems such as Slack or Microsoft Teams.

This request for records includes any attachments to those records or other materials enclosed with those records when they were previously transmitted. To the extent that an email is responsive to our request, our request includes all prior messages sent or received in that email chain, as well as any attachments to the email.

To the extent that potentially responsive documents contain agency notes or information on internal agency deliberations, I respectfully request that these records be provided with such information redacted. Additionally, if you believe that any potentially responsive records include any personal, commercial, or proprietary information, I respectfully request that these records be provided with such information completely redacted.



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Washington, DC 20002
(202) 546-4400
heritage.org

Fee Waiver Request

This request is primarily and fundamentally for non-commercial purposes. As a 501(c)(3) nonprofit, Heritage Foundation does not have a commercial purpose and the release of the information requested is not in Heritage Foundation's interest. Heritage Foundation's mission is to formulate and promote public policies based on the principles of free enterprise, limited government, individual freedom, traditional American values, and a strong national defense. Heritage Foundation uses the information requested and analyzes it in order to educate the public through social media,¹ broadcast media² (traditional and nontraditional) and press releases.³ The requested information is in the public interest⁴ and as the Washington Post has stated in a recent article, "[s]ocial media monitoring is still controversial on Capitol Hill, where the contract could be scrutinized by lawmakers in both parties. Some Democrats are anxious about creeping government surveillance, while Republicans have focused on the idea that the government could be monitoring political speech."⁵

Because this is a request by a member of the news media for information of public interest, made in my capacity as an author for the *Daily Signal*⁶ (a major news outlet⁷), I actively gather information of potential interest to our Daily Signal audience, and I use my editorial skills to turn raw materials into a distinct work, and I distribute that work to our Daily Signal audience through podcasts⁸ or articles. I request that you waive all applicable fees associated with this request.

¹ Heritage Foundation. [@ Heritage] (2022, February 18). 626.8K Followers Twitter. <https://twitter.com/Heritage>

² Fox News. (2022, February 18). Heritage Foundation launches Conservative Oversight Project aimed at 'exposing' Biden admin, leftist policies. <https://www.foxnews.com/politics/heritage-conservative-oversight-project-biden-admin-leftist-policies>

³ Heritage Foundation. (2022, February 18). Press. <https://www.heritage.org/press>.

⁴ FedScoop. (2022, April 8, 2022). FBI purchases 5,000 licenses for Babel X social media OSINT tool. <https://www.techrepublic.com/article/fbi-investing-millions-in-software-to-monitor-social-media-platforms/>

⁵ Washington Post. (2022, April 8, 2022). The FBI is spending millions on social media tracking software. <https://www.washingtonpost.com/politics/2022/04/05/fbi-is-spending-millions-social-media-tracking-software/>

⁶ Daily Signal. (2022, February 18). Mike Howell. <https://www.dailysignal.com/author/mike-howell/>

⁷ Daily Signal. [@DailySignal] (2022, February 18). 73.7K Followers Twitter. <https://twitter.com/DailySignal>

⁸ Apple. (2022, March 4) The Daily Signal Podcast. <https://podcasts.apple.com/us/podcast/the-daily-signal-podcast/id1313611947>



214 Massachusetts Avenue, NE
Washington, DC 20002
(202) 546-4400
heritage.org

If you deny this request for a fee waiver, please advise me in advance of the estimated charges if they are to exceed \$50. Please send me a detailed and itemized explanation of those charges.

In the interest of expediency and to minimize the research and/or duplication burden on your staff, please send records electronically if possible. If this is not possible, please notify me before sending to the mailing address listed below. In all cases, please communicate with me at the below telephone number or email address.

If any portion of this request is denied for any reason, please provide written notice of the records or portions of records that are being withheld and cite each specific exemption of the Freedom of Information Act on which the agency relies.

Please provide partial responses when they are ready. Thank you in advance for considering my request. If you have any questions please contact me at oversightproject@heritage.org.

Sincerely,

Mike Howell
Senior Advisor and Author at *The Daily Signal*
The Heritage Foundation
214 Massachusetts Ave, NE
Washington, DC 20002

Exhibit 2



**Homeland
Security**

Privacy Office, Mail Stop 0655

May 19, 2022

SENT VIA E-MAIL TO: mike.howell@heritage.org

Michael Howell
The Heritage Foundation
214 Massachusetts Ave NE
Washington, DC 20002

Re: **2022-HQFO-00905**

Dear Mr. Howell:

This letter acknowledges receipt of your Freedom of Information Act (FOIA) request to the Department of Homeland Security (DHS), dated April 18, 2022, and to your request for a waiver of all assessable FOIA fees. Specifically, you requested “all documents and communications, to or from any of the individuals below regarding any of these terms:

- Babel,
- Babel X,
- Babel Street, and
- Panamerica

between January 21, 2021, through March 31, 2022.

Any emails to or from individuals below to anyone whose domain ends in @babelstreet.com between January 21, 2021, through March 31, 2022.

Any emails from the Office of the Chief Information Officer regarding any of these terms:

- Babel,
- Babel X,
- Babel Street
- Panamerica.

between January 21, 2021, through March 31, 2022.

Individuals:

Immediate Office of the Secretary

- Alejandro Nicholas Mayorkas– Secretary of Homeland Security
- Kristie A. Canegallo – Chief of Staff
- Jeffrey Michael Rezmovic - Deputy Chief of Staff
- Alexandra Fox – Scheduler
- Samantha E. Vinograd – Senior Counselor for National Security
- Tim Maurer - Senior Counselor for Cybersecurity and Emerging Technology

- Isabella F. Ulloa - Counselor
- Milton R. Patch III – Special assistant
- Saraswati Shah – Special assistant
- Lt. Mike H. Wu – Military assistant to the secretary
- Cass R. Sunstein - Senior Counselor
- David D. Gersten - Ombudsman for Immigration Detention (Acting)
- Charanya Krishnaswami - Senior Counselor for Immigration
- Steven Feder - Chief of Protocol and Director of Scheduling and Advance
- Phillip M. Thompson – White house Liaison
- Nikhil A. Patel – White house fellow.”

Our office received your request on April 18, 2022.

Due to the increasing number of FOIA requests received by this office, we may encounter some delay in processing your request. Consistent with 6 C.F.R. Part 5 § 5.5(a) of the DHS FOIA regulations, the Department processes FOIA requests according to their order of receipt. Although DHS’ goal is to respond within 20 business days of receipt of your request, FOIA does permit a 10-day extension of this time period in certain circumstances under 6 C.F.R. Part 5 § 5.5(c). As your request seeks documents that will require a thorough and wide-ranging search, DHS will invoke a 10-day extension for your request pursuant to 6 C.F.R. Part 5 § 5.5(c). If you would like to narrow the scope of your request, please contact our office. We will make every effort to comply with your request in a timely manner.

You have requested a fee waiver. The DHS FOIA regulations at 6 C.F.R. Part 5 § 5.11(k) set forth six factors DHS must evaluate to determine whether the applicable legal standard for a fee waiver has been met: (1) Whether the subject of the requested records concerns “the operations or activities of the government,” (2) Whether the disclosure is “likely to contribute” to an understanding of government operations or activities, (3) Whether disclosure of the requested information will contribute to the understanding of the public at large, as opposed to the individual understanding of the requester or a narrow segment of interested persons, (4) Whether the contribution to public understanding of government operations or activities will be “significant,” (5) Whether the requester has a commercial interest that would be furthered by the requested disclosure, and (6) Whether the magnitude of any identified commercial interest to the requester is sufficiently large in comparison with the public interest in disclosure, that disclosure is primarily in the commercial interest of the requester.

Upon review of the subject matter of your request, and an evaluation of the six factors identified above, DHS has determined that it will conditionally grant your request for a fee waiver. The fee waiver determination will be based upon a sampling of the responsive documents received from the various DHS program offices as a result of the searches conducted in response to your FOIA request. DHS will, pursuant to DHS FOIA regulations applicable to media requesters, process the first 100 pages free of charge. If upon review of these documents, DHS determines that the disclosure of the information contained in those documents does not meet the factors permitting DHS to waive the fees, then DHS will at that time either deny your request for a fee waiver entirely, or will allow for a percentage reduction in the amount of the fees corresponding to the amount of relevant material found that meets the factors allowing for a fee waiver. In either

case, DHS will promptly notify you of its final decision regarding your request for a fee waiver and provide you with the responsive records as required by applicable law.

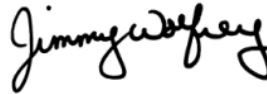
In the event that your fee waiver is denied, and you determine that you still want the records, provisions of the FOIA allow us to recover part of the cost of complying with your request. We shall charge you for records in accordance with the DHS FOIA regulations as they apply to media requesters. As a media requester you will be charged 10 cents per page for duplication; the first 100 pages are free. In the event that your fee waiver is denied, we will construe the submission of your request as an agreement to pay up to \$25.00. This office will contact you before accruing any additional fees.

We have queried the appropriate component(s) of DHS for responsive records. If any responsive records are located, they will be reviewed for determination of releasability. Please be assured that one of the analysts in our office will respond to your request as expeditiously as possible. We appreciate your patience as we proceed with your request.

Your request has been assigned reference number **2022-HQFO-00905**. Please refer to this identifier in any future correspondence. The status of your FOIA request is now available online and can be accessed at: <https://foiarequest.dhs.gov/app/CheckStatus.aspx>, by using this FOIA request number.

If you have any questions, or would like to discuss this matter, please feel free to contact this office at 1-866-431-0486 or 202-343-1743.

Sincerely,

A handwritten signature in black ink, appearing to read "Jimmy Wolfrey". The signature is fluid and cursive, with the first name "Jimmy" and last name "Wolfrey" clearly distinguishable.

Jimmy Wolfrey
Senior Director, FOIA Operations and Management
(Acting)

Exhibit 3

From: [OversightProject](#)
To: foia@hq.dhs.gov; [OversightProject](#)
Subject: RE: [ACTION NEEDED] Department of Homeland Security FOIA 2022-HQFO-00905
Date: Monday, June 13, 2022 5:01:00 PM

Thank you for reaching out. We are interested in all of it.

From: foia@hq.dhs.gov <foia@hq.dhs.gov>
Sent: Monday, June 13, 2022 4:34 PM
To: OversightProject <OversightProject@heritage.org>
Subject: [ACTION NEEDED] Department of Homeland Security FOIA 2022-HQFO-00905

Good Afternoon,

OCIO has conducted a search for records and wanted us to ask if you would be willing to narrow your request. We have conducted a CIO search and the results came back at 2.1 GB. We wanted to see if you wanted to narrow the time frame or use an anchor keyword for the search. The search we've conducted was the following:

Time Period: January 1, 2021 – March 31, 2022

Keywords/Filters:

("Babel") **OR** ("Babel X") **OR** ("Babel Street") **OR** ("Panamericana")

Please let us know if you'd be willing to narrow your request. We will place this case on hold until we receive a response from you.

Regards,

DHS Privacy Office
Disclosure & FOIA Program
STOP 0655
Department of Homeland Security
245 Murray Drive, SW
Washington, DC 20528-0655
Telephone: 1-866-431-0486 or 202-343-1743
Fax: 202-343-4011
Visit our [FOIA website](#)