

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)	
)	
<i>Plaintiffs,</i>)	
)	
v.)	Case No. 23-cv-330
)	
U.S. DEPARTMENT OF JUSTICE)	
950 Pennsylvania Ave., N.W.)	
Washington, D.C. 20408)	
)	
<i>Defendant.</i>)	
_____)	

COMPLAINT AND PRAYER FOR DECLARATORY AND INJUNCTIVE RELIEF

Plaintiffs THE HERITAGE FOUNDATION and MIKE HOWELL (collectively “Plaintiffs”) for their complaint against Defendant DEPARTMENT OF JUSTICE (“DOJ” or “Department”) 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 information from DOJ component the Federal Bureau of Investigation (“FBI”).
2. Plaintiffs’ FOIA Request concerns whistleblower reports released by the then-House Judiciary Committee Minority Staff that made an alarming claim concerning an FBI

program believed to be codenamed “Operation Bronze Griffin.” As Plaintiffs’ FOIA Request explained:

FBI Whistleblower information provided to House Judiciary Committee Republicans suggests that the FBI and Facebook have a so-called “special relationship” that may threaten constitutional protections and lead to partisan efforts. As part of a program likely codenamed “Operation Bronze Griffin,” the FBI allegedly accepts private user information from Facebook, but without the user’s consent or the legal process the FBI would otherwise need to independently pursue such user-related information. Furthermore, according to whistleblower information, the types of user content that Facebook provides have a partisan focus, tending only to concern users from one side of the political spectrum. The FBI’s willingness to accept this political speech information from Facebook—outside of routine investigative pathways—further threatens Americans’ constitutional rights. In response to reporting on these allegations, the FBI “neither confirmed nor denied the allegations,” but stated that relationships with social media providers ensure a “quick exchange of threat information” and an “ongoing dialogue.”

FOIA Request No. NFP-145404, at 1 (Nov. 18, 2022) (Ex. 1) (“Request” or “Plaintiffs’ FOIA Request”).¹

3. The requested information is of great importance to the public as a part of the vigorous on-going national debates over the role of “Big Tech” in America and alleged FBI abuses and politicization. It has particular salience in the context of the House of Representatives creating the Select Subcommittee on the Weaponization of the Federal Government of the House Judiciary Committee with the specific charge to investigate:

[H]ow executive branch agencies work with, obtain information from, and provide information to the private sector, non-profit entities, or other government agencies to facilitate action against American citizens, including the extent, if any, to which illegal or improper, unconstitutional, or unethical activities were engaged in by the executive branch or private sector against citizens of the United States.

¹ See also Minority Staff of the H. Comm. On the Judiciary, 117th Cong., *FBI Whistleblowers: What Their Disclosures About the Politicization of the FBI and Justice Department*, at 45–46 (Nov. 4, 2022), found at https://judiciary.house.gov/sites/evo-subsites/republicans-judiciary.house.gov/files/legacy_files/wp-content/uploads/2022/11/HJC_STAFF_FBI_REPORT.pdf (last visited Feb. 5, 2023).

H. Res. 12 (b)(1)(B), 118th Cong. (2023).

4. Not only is the information sought of great importance, but its timely production is critical as well. Proceedings of the Select Subcommittee are time limited (*id.* at (f)) and are already underway. The public has a right to the information sought by the Request to inform and meaningfully participate in these hearings and related debates.

5. What is more, if the FBI whistleblowers are correct, the FBI conduct may very well be illegal. Providing the public with information on a potentially illegal FBI program and the opportunity to participate in debate thereupon is essential as the loss of core constitutional freedoms causes continuous and on-going irreparable harm.

6. Regrettably, Plaintiffs' attempt to learn more about this issue was met by FBI stonewalling. The FBI claimed that the Request's specific language—which provided the search terms—“does not contain enough descriptive information to permit a search of our records” and thereby denied the Request. Setting aside the definitional impossibility, this position is legally wrong. Adding insult to injury, the FBI has ignored the Plaintiffs' administrative appeal. Intervention of the Court is necessary to obtain records on this critical and time sensitive matter.

PARTIES

7. Plaintiff, The Heritage Foundation is a Washington, D.C.-based nonpartisan public policy organization 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*, found at <https://www.heritage.org/about-heritage/mission> (last visited Feb. 5, 2023). 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*.

8. Plaintiff Mike Howell leads 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.

9. Defendant DOJ is a federal agency of the United States within the meaning of 5 U.S.C. § 552(f)(1) whose mission is to “uphold the rule of law, to keep our country safe, and to protect civil rights.” About DOJ; Our Mission, *found at* <https://www.justice.gov/about#:~:text=Mission,and%20to%20protect%20civil%20rights>. (last visited Feb. 5, 2022).

JURISDICTION AND VENUE

10. 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.

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

PLAINTIFF’S FOIA REQUEST

12. Plaintiffs submitted their FOIA Request on November 18, 2022. Request at 1. As explained, *supra* at paragraph 2, the Request set forth its basis in detail—alarming whistleblower reports of potential FBI abuses of power in coordination with “Big Tech”—and

provided as much context as the limited public information from whistleblowers allows. *Id.* It specifically sought records from January 1, 2016 to present containing:

- “facebook” AND “warrantless”
- “meta” AND “warrantless”
- “facebook” AND “political speech”
- “facebook” AND “protected speech”
- “facebook” AND “1st amendment”
- “facebook” AND “first amendment”

Id. at 2.

DOJ’s Initial Denial

13. On December 13, 2022, the Department responded with what appears by its language to be a “form” denial. Letter from Michael G. Seidel to Mike Howell (Dec. 13, 2022) (Ex. 2). The sole basis for the denial was: “Your letter does not contain enough descriptive information to permit a search of our records.” *Id.* The response raised no other objection to Plaintiffs’ FOIA Request. Because the letter denied the Request, it did not pass on the fee waiver request. *Id.*

Plaintiffs’ Administrative Appeal

14. Plaintiffs filed an administrative appeal on January 7, 2023. As Plaintiffs explained, the initial denial was in error:

The search terms we provided were clear in the letter itself and that the request focused on items easily searched in emails. The FBI failed to search the records system most likely to contain responsive information. The information sought by Heritages’ FOIA Request is easily obtained by simple queries in the FBI’s email databases. Moreover, because the FBI unquestionably has the requested information in the email database, extracting and compiling this information does not amount to the creation of a new record.

Id. at 2. Plaintiffs received no response to this appeal.

15. 20 working days from January 7, 2023 is February 6, 2023.

FIRST CLAIM FOR RELIEF
Violation FOIA, 5 U.S.C. §552

Failure to Conduct Adequate Searches for Responsive Records.

16. Plaintiffs re-allege paragraphs 1–15 as if fully set out herein.
17. 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).
18. Plaintiffs properly requested records within the possession, custody, and control of Defendant.
19. Defendant is subject to FOIA and therefore must make reasonable efforts to search for requested records.
20. Defendant has failed to promptly review agency records for the purpose of locating and collecting those records that are responsive to Plaintiffs’ FOIA Request.
21. Defendant’s failure to conduct searches for responsive records violates FOIA and the DOJ regulations.
22. Plaintiffs have a statutory right to the information they seek.
23. Defendant is in violation of FOIA.
24. 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.
25. Plaintiffs have no adequate remedy at law.

26. 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

27. Plaintiffs re-allege paragraphs 1–26 as if fully set out herein.

28. 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).

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

30. 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.

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

32. 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.

33. Defendant’s failure to provide all non-exempt responsive records violates FOIA and DOJ regulations.

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

35. Defendant is in violation of FOIA.

36. 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.

37. Plaintiffs have no adequate remedy at law.

38. Plaintiffs have constructively exhausted their administrative remedies.

THIRD CLAIM FOR RELIEF
Violation of FOIA, 5 U.S.C. § 552
Wrongful Denial of Fee Waiver

39. Plaintiffs re-allege paragraphs 1–38 as if fully set out herein.

40. 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).

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

42. Defendant has constructively denied Plaintiffs’ application for a fee waiver pursuant to 5 U.S.C. § 552(a)(4)(A)(ii) & (iii) and 28 C.F.R. §16.10(k).

43. The Request does not have a commercial purpose because Heritage is a 501(c)(3) nonprofit, Howell acts in his capacity as a Heritage employee, and release of the information sought does not further Plaintiffs’ commercial interest.

44. Plaintiffs are members of the news media as they “gather[] information of potential interest to a segment of the public, use[] . . . [their] editorial skills to turn the raw materials into a distinct work, and distribute[] that work to an audience” via Heritage’s major news outlet, *The Daily Signal*. 5 U.S.C. § 552(a)(4)(a)(ii).

45. Disclosure of the information sought by the Request also “is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government.” 5 U.S.C. § 552(a)(4)(A)(iii).

46. Defendant has “failed to comply with a[]time limit under paragraph (6)” as to the Request. 5 U.S.C. § 552(a)(4)(A)(viii)(I).

47. Plaintiffs have a statutory right to a fee waiver.

48. Defendant is in violation of FOIA by denying a fee waiver.

49. Plaintiffs are being irreparably harmed by reason of Defendant’s violation of FOIA. Plaintiffs are being denied a fee waiver 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.

50. Plaintiffs have no adequate remedy at law.

51. Plaintiffs have constructively exhausted their administrative remedies.

FOURTH CLAIM FOR RELIEF
Violation of FOIA, 5 U.S.C. § 552
Statutory Bar Against Charging Fees

52. Plaintiffs re-allege paragraphs 1–51 as if fully set out herein.

53. 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).

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

55. The Request does not have a commercial purpose because Heritage is a 501(c)(3) nonprofit, Howell acts in his capacity as a Heritage employee, and release of the information sought does not further Plaintiffs' commercial interest.

56. Plaintiffs are members of the news media as they “gather[] information of potential interest to a segment of the public, use[] . . . [their] editorial skills to turn the raw materials into a distinct work, and distribute[] that work to an audience” via Heritage’s major news outlet, *The Daily Signal*. 5 U.S.C. § 552(a)(4)(a)(ii).

57. Disclosure of the information sought by the Request also “is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government.” 5 U.S.C. § 552(a)(4)(A)(iii).

58. Defendant has “failed to comply with a[]time limit under paragraph (6)” as to the Request. 5 U.S.C. § 552(a)(4)(A)(viii)(I).

59. Defendant has not determined “more than 5,000 pages are necessary to respond to this request,” or discussed with Plaintiffs how Plaintiffs “could effectively limit the scope of the request.” 5 U.S.C. § 552(a)(4)(A)(viii)(II)(cc).

60. Defendant is currently statutorily barred from charging fees related to Plaintiffs’ FOIA Request. Therefore, Plaintiffs have a statutory right to have their request processed without being charged any fees.

61. Plaintiffs are being irreparably harmed by reason of Defendant’s violation of FOIA. Plaintiffs will continue to be irreparably harmed unless Defendant is compelled to comply with the law.

62. Plaintiffs have no adequate remedy at law.

63. 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 Defendant 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 Defendant from continuing to withhold any and all non-exempt records responsive to Plaintiffs' FOIA Request;
- D. Enjoin Defendant from assessing fees or costs for Plaintiffs' FOIA Request;
- E. Retain jurisdiction over this matter as appropriate;
- F. Award Plaintiffs their costs and reasonable attorneys' fees in this action as provided by 5 U.S.C. § 522(a)(4)(E); and
- G. Grant such other and further relief as this Court may deem just and proper.

Dated: February 6, 2023

Respectfully submitted,

/s/ Samuel Everett Dewey
SAMUEL EVERETT DEWEY
(No. 999979)
Chambers of Samuel Everett Dewey, LLC
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Email: samueledewey@sedchambers.com

ROMAN JANKOWSKI
(No. 975348)
The Heritage Foundation
Telephone: (202) 489-2969
Email: Roman.Jankowski@heritage.org
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 Justice 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>
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(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 22204	ATTORNEYS (IF KNOWN)
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II. BASIS OF JURISDICTION (PLACE AN X IN ONE BOX ONLY)	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>PTF</th> <th>DFT</th> <th></th> <th>PTF</th> <th>DFT</th> </tr> </thead> <tbody> <tr> <td>Citizen of this State</td> <td><input type="radio"/> 1</td> <td><input type="radio"/> 1</td> <td>Incorporated or Principal Place of Business in This State</td> <td><input type="radio"/> 4</td> <td><input type="radio"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="radio"/> 2</td> <td><input type="radio"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td><input type="radio"/> 5</td> <td><input type="radio"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="radio"/> 3</td> <td><input type="radio"/> 3</td> <td>Foreign Nation</td> <td><input type="radio"/> 6</td> <td><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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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																				

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)*
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E. General Civil (Other) OR **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)
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<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.)

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 type="checkbox"/>
VIII. RELATED CASE(S) IF ANY	(See instruction)	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	If yes, please complete related case form

DATE: <u>February 6, 2023</u>	SIGNATURE OF ATTORNEY OF RECORD <u>/s/ Samuel Everett Dewey</u>
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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**

CLEAR FORM

Heritage Foundation & Mike Howell

Plaintiff

v.

Department of Justice

Defendant

Civil Action No. 23-cv-330

SUMMONS IN A CIVIL ACTION

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

Hon. Merrick Garland
Attorney General of the United States
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530

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:

Samuel Everett Dewey
Chambers of Samuel Everett Dewey, LLC
2200 12th Court North No. 609
Arlington, VA 22201

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. 23-cv-330

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 \$ _____ 0.00 _____ .

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:

Print

Save As...

Reset

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

CLEAR FORM

Heritage Foundation & Mike Howell

Plaintiff

v.

Department of Justice

Defendant

Civil Action No. 23-cv-330

SUMMONS IN A CIVIL ACTION

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

Civil Process Clerk
U.S. Attorney's Office for D.C.
601 D Street, N.W.
Washington, D.C. 20530

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:

Samuel Everett Dewey
Chambers of Samuel Everett Dewey, LLC
2200 12th Court North No. 609
Arlington, VA 22201

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. 23-cv-330

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 \$ _____ 0.00 _____.

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:

Print

Save As...

Reset

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

CLEAR FORM

Heritage Foundation & Mike Howell

Plaintiff

v.

Department of Justice

Defendant

Civil Action No. 23-cv-330

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*
Department of Justice
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530

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:

Samuel Everett Dewey
Chambers of Samuel Everett Dewey, LLC
2200 12th Court North No. 609
Arlington, VA 22201

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. 23-cv-330

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 \$ _____ 0.00 _____.

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:

Print

Save As...

Reset

EXHIBIT 1



214 Massachusetts Avenue, NE
Washington, DC 20002
(202) 546-4400
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SENT VIA: <https://efoia.fbi.gov>

November 18, 2022

Michael G. Seidel, Section Chief
Record/Information Dissemination Section
Records Management Division
Federal Bureau of Investigation
Department of Justice
200 Constitution Drive
Winchester, VA 22602

Dear FOIA Officer,

FBI Whistleblower information provided to House Judiciary Committee Republicans suggests that the FBI and Facebook have a so-called “special relationship” that may threaten constitutional protections and lead to partisan efforts. As part of a program likely codenamed “Operation Bronze Griffin,” the FBI allegedly accepts private user information from Facebook, but without the user’s consent or the legal process the FBI would otherwise need to independently pursue such user-related information. Furthermore, according to whistleblower information, the types of user content that Facebook provides have a partisan focus, tending only to concern users from one side of the political spectrum. The FBI’s willingness to accept this political speech information from Facebook—outside of routine investigative pathways—further threatens Americans’ constitutional rights. In response to reporting on these allegations, the FBI “neither confirmed nor denied the allegations,” but stated that relationships with social media providers ensure a “quick exchange of threat information” and an “ongoing dialogue.”¹

If this information is accurate, the conduct of the FBI may be illegal as the information reportedly being obtained without a search warrant by the FBI can only legally be obtained via a search warrant.

Pursuant to the Freedom of Information Act, 5 U.S.C. § 552, and the implementing FOIA regulations of the Department of Justice (“DOJ”), 28 CFR Part 16, I respectfully request all records and FBI communications and attachments from January 1, 2016, to the present that contain any of the following terms:

¹ Committee on the Judiciary. (Accessed 2022, November 4). FBI WHISTLEBLOWERS: WHAT THEIR DISCLOSURES INDICATE ABOUT THE POLITICIZATION OF THE FBI AND JUSTICE DEPARTMENT. https://republicans-judiciary.house.gov/wp-content/uploads/2022/11/HJC_STAFF_FBI_REPORT.pdf



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- “bronze griffin”
- “facebook” AND “warrantless”
- “meta” AND “warrantless”
- “facebook” AND “political speech”
- “facebook” AND “protected speech”
- “facebook” AND “1st amendment”
- “facebook” AND “first amendment”

The terms “pertaining to,” “referring,” “relating,” or “concerning” with respect to any given subject means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is in any manner whatsoever pertinent to that subject.

The term “record” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, inter-office and intra-office communications, electronic mail (emails), MMS or SMS text messages, instant messages, messaging systems (such as iMessage, Microsoft Teams, WhatsApp, Telegram, Signal, Google Chat, Twitter direct messages, Lync, Slack, and Facebook Messenger), contracts, cables, telexes, notations of any type of conversation, telephone call, voicemail, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electronic records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise.

The terms “and” and “or” should be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information which might otherwise be construed to be outside its scope. The terms “all,” “any,” and “each” should each be construed as 'encompassing any and all. The singular includes the plural number, and vice versa. The present tense includes the past and vice versa. The masculine includes the feminine and neuter genders.



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The term “communication” means each manner or means of disclosure or exchange of information (in the form of facts, ideas, inquiries, or otherwise), regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in an in-person meeting, by telephone, facsimile, e-mail (desktop or mobile device), text message, MMS or SMS message, messaging systems (such as iMessage, Microsoft Teams, WhatsApp, Telegram, Signal, Google Chat, Twitter direct messages, Lync, Slack, and Facebook Messenger), regular mail, telexes, releases, or otherwise.

“Communications with,” “communications from,” and “communications between” means any communication involving the related parties, regardless of whether other persons were involved in the communication, and includes, but is not limited to, communications where one party is cc’d or bcc’d, both parties are cc’d or bcc’d, or some combination thereof.

Please consider all members of a document “family” to be responsive to the request if any single “member” of that “family” is responsive, regardless of whether the “family member” in question is “parent” or “child.”

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. If access to this request will take longer than twenty business days, please let me know when I might receive records or be able to inspect the requested records. Please produce responsive documents as soon as they become available. In all cases, please communicate with me at the below email address.

Please comply fully with 5 U.S.C. § 552(b). Accordingly, without limitation to the foregoing, 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. Moreover, to the extent that responsive records may be withheld in part produce all reasonably segregable portions of those records. Additionally, please provide all responsive documents even if they are redacted in full.

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 commercial 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



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the public through social media,² broadcast media³ (traditional and nontraditional) and press releases.⁴ The requested information is in the public interest as this is an issue of the ideological weaponization of law enforcement is a national controversy which has been covered extensively by national broadcast media and national print media.⁵ The purpose of this Freedom of Information Act request is to examine this controversial belief.

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 Signal⁶ (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.

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.

Thank you in advance for considering my request. If you have any questions, or feel you need clarification of this request 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, D.C. 2000

² Heritage Foundation. [@ Heritage] (Accessed: 2022, February 18). 626.8K Followers Twitter. <https://twitter.com/Heritage>

³ Fox News. (Accessed: 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>

⁴ Heritage Foundation. (Accessed: 2022, February 18). Press. <https://www.heritage.org/press> .

⁵The Free Beacon. (Accessed 2022, October 31). FBI Officials Who Briefed Facebook on Hunter Biden Story Are Dem Donors. <https://freebeacon.com/democrats/fbi-officials-who-briefed-facebook-on-hunter-biden-story-are-dem-donors/>

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

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

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

EXHIBIT 2



Federal Bureau of Investigation

Washington, D.C. 20535

December 13, 2022

MIKE HOWELL
HERITAGE FOUNDATION/DAILY SIGNAL
214 MASSACHUSETTS AVENUE, NORTHEAST
WASHINGTON, DC 20002

FOIPA Request No.: NFP-145404
Subject: Operation Bronze Griffin

Dear Mike Howell:

This is in response to your Freedom of Information/Privacy Acts (FOIPA) request.

The FOIPA provides for access to Government records where the records sought are "reasonably described" [Title 5, United States Code, Section 552(a)(3)(A)]. Your letter does not contain enough descriptive information to permit a search of our records. Therefore, your request is being administratively closed. In accordance with Title 28, Code of Federal Regulations, Part 16.3(b), please provide us more specific information.

Examples of specific information which could assist in locating potentially responsive records within a reasonable amount of effort are as follows:

- Individuals
 - Complete name
 - Birth date
 - Place of birth
 - Place of death
 - Date of death
 - Date and location of incident
- Organizations or Events
 - Date of event
 - Time frame
 - Location

For questions on how to reasonably describe your request, please email us at foipaquestions@fbi.gov. You may also visit www.fbi.gov and select "Services," "Information Management," and "Freedom of Information/Privacy Act" for additional guidance.

If you are not satisfied with the Federal Bureau of Investigation's determination in response to this request, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, 441 G Street, NW, 6th Floor, Washington, D.C. 20530, or you may submit an appeal through OIP's FOIA STAR portal by creating an account following the instructions on OIP's website: <https://www.justice.gov/oip/submit-and-track-request-or-appeal>. Your appeal must be postmarked or electronically transmitted within ninety (90) days of the date of my response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal." Please cite the FOIPA Request Number assigned to your request so it may be easily identified.

You may seek dispute resolution services by emailing the FBI's FOIA Public Liaison at foipaquestions@fbi.gov. The subject heading should clearly state "Dispute Resolution Services." Please also cite the FOIPA Request Number assigned to your request so it may be easily identified. You may also contact the Office of Government Information Services (OGIS). The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Sincerely

A handwritten signature in black ink, appearing to read "M. G. Seidel". The signature is fluid and cursive, with a large initial "M" and a long, sweeping tail.

Michael G. Seidel
Section Chief
Record/Information
Dissemination Section
Information Management Division

EXHIBIT 3



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

SENT VIA: OIP's FOIA online portal <https://doj-foia.entellitrak.com/etk-doj-foia-prod/login.request.do>

January 7, 2023

Director of the Office of Information Policy
U.S. Department of Justice
Office of Information Policy
441 G Street NW, Sixth Floor
Washington, D.C. 20001

RE: Freedom of Information Act Appeal regarding FOIPA Request No.: NFP-145404
Subject: Operation Bronze Griffin

Dear FOIA Appeals Officer,

The Heritage Foundation Oversight Project is appealing the denial in full of the attached Federal Bureau of Investigation Freedom of Information Act (FOIA) Request NFP-145404, dated December 13, 2022, pursuant to 28 C.F.R. § 5.8(a)(1) because the search in question was inadequate. The FBI clearly possesses information relevant to The Heritage Foundation's FOIA Request. But the FBI refused to search the database likely to contain that information. That is error.

In attached letter, dated December 13, 2022, the FBI advised:

Your letter does not contain enough descriptive information to permit a search of our records.

The November 18, 2022 FOIA request stated,

Pursuant to the Freedom of Information Act, 5 U.S.C. § 552, and the implementing FOIA regulations of the Department of Justice ("DOJ"), 28 CFR Part 16, I respectfully request all records and FBI communications and attachments from January 1, 2016, to the present that contain any of the following terms:

- *"bronze griffin"*
- *"facebook" AND "warrantless"*
- *"meta" AND "warrantless"*
- *"facebook" AND "political speech"*
- *"facebook" AND "protected speech"*
- *"facebook" AND "1st amendment"*



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- “facebook” AND “first amendment”

The FBI’s basis of denial rests on a clear error of law. The search terms we provided were clear in the letter itself and that the request focused on items easily searched in emails. The FBI failed to search the records system most likely to contain responsive information. The information sought by Heritages’ FOIA Request is easily obtained by simple queries in the FBI’s email databases.¹ Moreover, because the FBI unquestionably has the requested information in the email database, extracting and compiling this information does not amount to the creation of a new record.²

I respectfully request that the FBI and/or DOJ reassess its response, search for records, and provide responsive records. If any portion of this request is denied for any reason, please provide copies 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 Appeal. If you have any questions, or feel you need clarification of this request please contact me at oversightproject@heritage.org.

Sincerely,

Mike Howell
Director of Oversight Project
The Heritage Foundation
214 Massachusetts Ave, NE
Washington, D.C. 20002

¹ See, e.g., *Jefferson v. DOJ*, 168 F. App’x 448, 450 (D.C. Cir. 2005) (reversing district court’s finding of reasonable search when agency “offered no plausible justification” for searching only its investigative database and agency “essentially acknowledged” that responsive files might exist in separate database); *Oglesby v. Dep’t of the Army*, 920 F.2d 57, 68 (D.C. Cir. 1990) (holding that agency may not limit search to one record system if others are likely to contain responsive records).

² See, e.g., *Schladetsch v. HUD*, No. 99-0175, 2000 WL 33372125, at *3 (D.D.C. Apr. 4, 2000) (“Because [agency] has conceded that it possesses in its databases the discrete pieces of information which [plaintiff] seeks, extracting and compiling that data does not amount to the creation of a new record.”).