

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>

December 2, 2022

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

Dear FOIA Appeals Officer,

The Heritage Foundation is appealing the full denial of attached Federal Bureau of Investigation Freedom of Information Act (FOIA) Request 1573290-000, dated November 2, 2022, pursuant to 28 C.F.R. § 5.8(a)(1) because the search in question was inadequate. Because the FBI possesses records relevant to The Heritage Foundation's FOIA Request, the FBI's failure to disclose any relevant records is evidence of an insufficient search.

In attached letter dated November 23, 2022, the FBI advised that the request was overly broad, did not comport with 28 C.F.R. § 16.3(b), and does not provide enough detail to locate records. Each of these FBI objections is demonstrably false.

Legally "adequate" FBI FOIA queries must include searches of FBI employees' email and all other communications on FBI systems reasonably likely to contain responsive records. Media reports have demonstrated that the subject matter of FOIA Request 1573290-000 was the basis of a Congressional criminal referral to the Department of Justice. Due to these facts, the FOIA Request 1573290-000's requested search terms would invariably have been used in FBI documents and/or communications. The uncommon usage of the requested search terms renders not only the documents and/or communications easily identifiable but greatly limits the number of potential documents containing those terms that would not be relevant to the FOIA request. As such, had an adequate query been run, records would have been identified.

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.



214 Massachusetts Avenue, NE
Washington, DC 20002

(202) 546-4400
heritage.org

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
Senior Advisor and Author at The Daily Signal
The Heritage Foundation
214 Massachusetts Ave, NE
Washington, D.C. 20002