



Jason Leopold <jasonleopold@gmail.com>

Request for records under the Freedom of Information Act (expedited processing sought)

1 message

Jason Leopold <jasonleopold@gmail.com>
Reply-To: jasonleopold@gmail.com
To: FOIA <FOIA@hq.dhs.gov>

Tue, Jun 19, 2018 at 11:43 AM

June 19, 2018

Freedom of Information Request
Department of Homeland Security
Privacy Office
via email: FOIA@hq.dhs.gov

This is a request for records under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552.

RECORDS SOUGHT

The records sought are:

1. All emails sent or received by Secretary of Homeland Security Kirstjen Nielsen during the time period June 1, 2017 through the date the search for responsive records is conducted. This request includes the entire email chain in which Secretary Nielsen is a sender or recipient (including a "cc" or "bcc") of one or more emails in the chain. This request also includes any attachments. This request also includes emails sent or received by Secretary Nielsen using any alias. This request also includes official communications sent or received by Secretary Nielsen using any non-DHS email account.
2. All briefing books prepared by Secretary Nielsen in preparation for any meeting she attended as Secretary of Homeland Security.
3. All meeting minutes and other meeting summaries for meetings attended by Secretary Nielsen during the time October 1, 2017 through the date the search for responsive records is conducted.
4. Secretary Nielsen's calendar and appointment book during the time period October 1, 2017 through the date the search for responsive records is conducted.
5. Secretary Nielsen's phone call log during the time period October 1, 2017 through the date the search for responsive records is conducted.

FORMAT

The requesters ask that any releases stemming from this request be provided in digital format (soft-copy) via email or on a compact disc or other like media.

FEE CATEGORY AND FEE WAIVER

I am the senior investigative reporter for BuzzFeed News and formerly senior investigative reporter and on-air correspondent for VICE News. Additionally, my reporting has been published in The Guardian, The Wall Street Journal, The Financial Times, Salon, CBS Marketwatch, The Los Angeles Times, The Nation, Truthout, Al Jazeera English and Al Jazeera America.

I request a complete waiver of all search and duplication fees. If my request for a waiver is denied, I request that I be considered a member of the news media for fee purposes.

I do not have any commercial interest in the records sought and am seeking them for the purpose of writing news stories to help the public understand the operations and activities of the DHS. I firmly intend to analyze the requested records in order to facilitate significant expansion of public understanding of government operations.

REQUEST FOR EXPEDITED PROCESSING

Exhibit A

I request expedited processing based on an urgency to inform the public about an actual or alleged federal government activity, if made by a person who is primarily engaged in disseminating information. Because Secretary Nielsen is now heading an agency whose policies, notably immigration policies that have been condemned by lawmakers, and because Secretary Nielsen has publicly stated that the media are not to be trusted, there is an urgent need for the public to understand her approach to management of a large agency, including her policy views and discussions with federal, state, and local individuals, as well as nongovernmental individuals and organizations.

I am a person primarily engaged in dissemination information. Specifically, I am a full-time reporter at BuzzFeed news.

I certify under penalty of perjury that the foregoing statements are true and correct.

Executed: 06/19/2018 /s/ Jason Leopold _____

Reasonably Foreseeable Harm. The FOIA Improvement Act of 2016 amended the FOIA as follows (5 USC 552(a)(8)):

(A) An agency shall—

(i) withhold information under this section only if—

(I) the agency reasonably foresees that disclosure would harm an interest protected by an exemption described in subsection (b); or

(II) disclosure is prohibited by law; and

(ii) (I) consider whether partial disclosure of information is possible whenever the agency determines that a full disclosure of a requested record is not possible; and

(II) take reasonable steps necessary to segregate and release nonexempt information. . . .

OLC should not fail to meet the requirements of Section 552(a)(8) when processing my request and release responsive records to me in full or at least in part.

INSTRUCTIONS REGARDING SEARCH

1. Request for Public Records:

Please search for any records even if they are already publicly available.

2. Request for Electronic and Paper/Manual Searches:

I request that searches of all electronic and paper/manual indices, filing systems, and locations for any and all records relating or referring to the subject of my request be conducted. I further request that the agencies conduct a search of its “soft files” as well as files in its locked cabinets.

3. Request regarding Photographs and other Visual Materials:

I request that any photographs or other visual materials responsive to my request be released to me in their original or comparable forms, quality, and resolution. For example, if a photograph was taken digitally, or if the agencies maintains a photograph digitally, I request disclosure of the original digital image file, not a reduced resolution version of that image file nor a printout and scan of that image file. Likewise, if a photograph was originally taken as a color photograph, I request disclosure of that photograph as a color image, not a black and white image. Please contact me for any clarification on this point.

4. Request for Duplicate Pages:

I request disclosure of any and all supposedly “duplicate” pages. Scholars analyze records not only for the information available on any given page, but also for the relationships between that information and information on pages surrounding it. As such, though certain pages may have been previously released to me, the existence of those pages within new context renders them functionally new pages. As such, the only way to properly analyze released information is to analyze that information within its proper context. Therefore, I request disclosure of all “duplicate” pages.

5. Request to Search Emails:

Please search for emails relating to the subject matter of my request.

6. Request for Search of Records Transferred to Other Agencies:

I request that in conducting its search, the agencies disclose releasable records even if they are available publicly through other sources outside the agencies, such as NARA.

FORMAT

I request that any releases stemming from this request be provided to me in digital format (soft-copy) on a compact disk or other like media.

FEE CATEGORY AND REQUEST FOR A FEE WAIVER

I am the senior investigative reporter for BuzzFeed News and formerly senior investigative reporter and on-air correspondent for VICE News. Additionally, my reporting has been published in The Guardian, The Wall Street Journal, The Financial Times, Salon, CBS Marketwatch, The Los Angeles Times, The Nation, Truthout, Al Jazeera English and Al Jazeera America.

I request a complete waiver of all search and duplication fees. If my request for a waiver is denied, I request that I be considered a member of the news media for fee purposes.

Under 5 U.S.C. §552(a)(4)(A)(iii), "Documents shall be furnished without any charge ... if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester." Disclosure in this case meets the statutory criteria, as the records sought detail the operations and activities of government. This request is also not primarily in my commercial request, as I am seeking the records as a journalist to analyze and freely release to members of the public.

If I am not granted a complete fee waiver, I request to be considered a member of the news media for fee purposes. I am willing to pay all reasonable duplication expenses incurred in processing this FOIA request.

I will appeal any denial of my request for a waiver administratively and to the courts if necessary.

Please do not hesitate to contact me if you have any questions concerning this request.
Thank you. I appreciate your time and attention to this matter.

--



Jason Leopold | **BuzzFeed News** | **Senior Investigative Reporter** | (213) 270-4334 | @JasonLeopold | 6824 Lexington Avenue, Los Angeles, CA 90038

Send me documents and tips, anonymously and securely: [contact.buzzfeed.com](https://www.buzzfeed.com/contact)

[My personal PGP](#)

My BuzzFeed PGP fingerprint: 46DB 0712 284B 8C6E 40FF 7A1B D3CD 5720 694B 16F0



**Homeland
Security**

Privacy Office, Mail Stop 0655

June 22, 2018

SENT VIA E-MAIL TO: jasonleopold@gmail.com

Jason Leopold
Senior Investigative Reporter
BuzzFeed News
1669 Benedict Canyon Drive
Beverly Hills, CA 90210

Re: **2018-HQFO-01107**

Dear Mr. Leopold:

This letter is in further response your Freedom of Information Act (FOIA) request to the Department of Homeland Security (DHS), dated June 19, 2018, and to your request for expedited handling and a waiver of all assessable FOIA fees. Our office received your perfected request on June 22, 2018. Specifically, you requested 1.all emails sent or received by Secretary of Homeland Security Kirstjen Nielsen from January 1, 2018 through June 22, 2018; 2. all briefing books prepared by Secretary Nielsen in preparation for any meeting she attended as Secretary of Homeland Security from January 1, 2018 through June 22, 2018; 3.all meeting minutes and other meeting summaries for meetings attended by Secretary Nielsen from January 1, 2018 through June 22, 2018; 4.Secretary Nielsen's calendar and appointment book; 5.Secretary Nielsen's phone call log.

Your request for expedited treatment is hereby denied.

Under the DHS FOIA regulations, expedited processing of a FOIA request is warranted if the request involves "circumstances in which the lack of expedited treatment could reasonably be expected to pose an imminent threat to the life or physical safety of an individual," 6 C.F.R. Part 5 § 5.5(e)(1)(i); "an urgency to inform the public about an actual or alleged federal government activity, if made by a person who is primarily engaged in disseminating information," 6 C.F.R. Part 5 § 5.5(e)(1)(ii); "the loss of substantial due process rights," 6 C.F.R. Part 5 § 5.5(e)(1)(iii); or "a matter of widespread and exceptional media interest in which there exist possible questions about the government's integrity which affect public confidence," 6 C.F.R. Part 5 § 5.5(e)(1)(iv). Requesters seeking expedited processing must submit a statement explaining in detail the basis for the request, and that statement must be certified by the requester to be true and correct pursuant to 6 C.F.R. Part 5 § 5.5(e)(3).

Exhibit B

Your request for expedited processing is denied because you do not qualify under any category pursuant to 6 C.F.R. Part 5 § 5.5(e)(1). You have not established that lack of expedited treatment in this case will pose an imminent threat to the life or physical safety of an individual. You have not established the loss of substantial due process rights. The information sought in your request is retrospective and you have not established that the information would have a bearing on immediate or resultant future situations. In addition, you are not primarily engaged in the dissemination of information to the public. You have not shown that you have the ability to educate the public beyond BuzzFeed News's limited constituency, nor have you established with the requisite specificity why you feel there is an urgency to inform your limited audience about past DHS actions. Qualifying urgency would need to exceed the public's right to know about government activity generally. You did not offer any supporting evidence of public interest that is any greater than the public's general interest in the Secretary's calendars. Finally, you did not establish this is a matter of widespread and exceptional media interest in which there exist possible questions about the government's integrity which affect public confidence. Your letter was conclusory in nature and did not present any facts to justify a grant of expedited processing under the applicable standards.

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.

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.

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 **2018-HQFO-01107**. 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://www.dhs.gov/foia-status>, by using this FOIA request number. Status information is updated daily. Alternatively, you can download the DHS eFOIA Mobile App, the free app is available for all Apple and Android devices. With the DHS eFOIA Mobile App, you can submit FOIA requests or check the status of requests, access all of the content on the FOIA website, and receive updates anyplace, anytime.

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,
Bruce George
FOIA Program Specialist



Jason Leopold <jasonleopold@gmail.com>

Amended request 2018-HQFO-01107

3 messages

Busch, Maura <Maura.Busch@hq.dhs.gov>
To: "jasonleopold@gmail.com" <jasonleopold@gmail.com>
Cc: "jason.leopold@gmail.com" <jason.leopold@gmail.com>

Fri, Jun 22, 2018 at 11:23 AM

Jason,

Please confirm via email that you agree to limit the timeframe for the search of S1's emails from January 1, 2018 through the present.

Will be sending you a new ack letter today.

Maura Busch

Government Information Specialist

Privacy Office

U.S. Department of Homeland Security

Main: 1.866.431.0486

Direct: (202) 570-2018

Fax: (202) 343-4011

Visit our [FOIA website](#)

From: Busch, Maura
Sent: Friday, June 22, 2018 12:40 PM
To: 'jasonleopold@gmail.com' <jasonleopold@gmail.com>
Cc: 'jason.leopold@gmail.com' <jason.leopold@gmail.com>
Subject: reach back on 2018-HQFO-01107

Jason,

I am working until 3 pm EST today.

Per our call yesterday, please let me know if you can discuss your request above on the phone with me today.

Exhibit C

This request is similar to a previous request, 2017-HQFO-01371 that you submitted last year that I was advised is now in litigation-for records about the prior S1 Kelley.

I was asked to reach out to you to clarify item one of this new request as this is for a much longer timeframe than the previous request.

Thanks,

Maura Busch

Government Information Specialist

Privacy Office

U.S. Department of Homeland Security

Main: 1.866.431.0486

Direct: (202) 570-2018

Fax: (202) 343-4011

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Jason Leopold <jasonleopold@gmail.com>
Reply-To: jasonleopold@gmail.com
To: "Busch, Maura" <Maura.Busch@hq.dhs.gov>

Fri, Jun 22, 2018 at 12:02 PM

Hey Maura,
Thank you. I confirm this. January 1 to present.

Best,
Jason

Jason Leopold
BuzzFeed News
Senior Investigative Reporter
(213) 270-4334
@jasonleopold
6824 Lexington Avenue
Los Angeles, CA 90038
Send me documents and tips, securely and anonymously: contact.buzzfeed.com
PGP: <http://bit.ly/1hpZzsd>

[Quoted text hidden]

Busch, Maura <Maura.Busch@hq.dhs.gov>
To: "jasonleopold@gmail.com" <jasonleopold@gmail.com>

Fri, Jun 22, 2018 at 12:03 PM

Forgot to add that the time frame for the balance of the request (Briefing books and minutes) will also be from Jan 1, 2108 as I was advised that they hope to locate these records via the email search so we need the same time frame.

Please confirm via email so we can get the search out by Monday June 25, 2018.

Maura Busch

Government Information Specialist

Privacy Office

U.S. Department of Homeland Security

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Direct: (202) 570-2018

Fax: (202) 343-4011

Visit our [FOIA website](#)

From: Jason Leopold <jasonleopold@gmail.com>
Sent: Friday, June 22, 2018 3:02 PM
To: Busch, Maura <Maura.Busch@HQ.DHS.GOV>
Subject: Re: Amended request 2018-HQFO-01107

[Quoted text hidden]



Jason Leopold <jasonleopold@gmail.com>

Amended request 2018-HQFO-01107

6 messages

Busch, Maura <Maura.Busch@hq.dhs.gov>

Fri, Jun 22, 2018 at 12:02 PM

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Maura Busch

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Sent: Friday, June 22, 2018 12:40 PM

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Cc: 'jason.leopold@gmail.com' <jason.leopold@gmail.com>

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Maura Busch

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Jason Leopold <jasonleopold@gmail.com>
Reply-To: jasonleopold@gmail.com
To: "Busch, Maura" <Maura.Busch@hq.dhs.gov>

Fri, Jun 22, 2018 at 12:03 PM

Hey Maura,
I confirm this as well as it applies to the briefing books.

Best,
Jason

Jason Leopold
BuzzFeed News
Senior Investigative Reporter
(213) 270-4334
@jasonleopold
6824 Lexington Avenue
Los Angeles, CA 90038
Send me documents and tips, securely and anonymously: contact.buzzfeed.com
PGP: <http://bit.ly/1hpZzsd>
[Quoted text hidden]

Busch, Maura <Maura.Busch@hq.dhs.gov>
To: "jasonleopold@gmail.com" <jasonleopold@gmail.com>

Fri, Jun 22, 2018 at 12:09 PM

Thanks and the minutes

Maura Busch
Government Information Specialist
Privacy Office
U.S. Department of Homeland Security
Main: 1.866.431.0486
Direct: (202) 570-2018
Fax: (202) 343-4011
Visit our [FOIA website](#)

From: Jason Leopold <jasonleopold@gmail.com>
Sent: Friday, June 22, 2018 3:03 PM
To: Busch, Maura <Maura.Busch@HQ.DHS.GOV>
Subject: Re: Amended request 2018-HQFO-01107

[Quoted text hidden]

Jason Leopold <jasonleopold@gmail.com>
Reply-To: jasonleopold@gmail.com
To: "Busch, Maura" <Maura.Busch@hq.dhs.gov>

Fri, Jun 22, 2018 at 12:20 PM

I confirm the date range applies to the minutes as well
Best,
Jason

Jason Leopold
BuzzFeed News
Senior Investigative Reporter
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Los Angeles, CA 90038
Send me documents and tips, securely and anonymously: contact.buzzfeed.com
PGP: <http://bit.ly/1hpZzsd>

[Quoted text hidden]

Busch, Maura <Maura.Busch@hq.dhs.gov>
To: "jasonleopold@gmail.com" <jasonleopold@gmail.com>

Fri, Jun 22, 2018 at 12:21 PM

Great getting a new ack ltr out to you shortly today thx

Maura Busch

Government Information Specialist

Privacy Office

U.S. Department of Homeland Security

Main: 1.866.431.0486

Direct: (202) 570-2018

Fax: (202) 343-4011

Visit our [FOIA website](#)

From: Jason Leopold <jasonleopold@gmail.com>
Sent: Friday, June 22, 2018 3:20 PM

[Quoted text hidden]

[Quoted text hidden]

Jason Leopold <jasonleopold@gmail.com>
Reply-To: jasonleopold@gmail.com
To: "Busch, Maura" <Maura.Busch@hq.dhs.gov>

Fri, Jun 22, 2018 at 12:30 PM

Thank you!

Jason Leopold
BuzzFeed News
Senior Investigative Reporter
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Los Angeles, CA 90038
Send me documents and tips, securely and anonymously: contact.buzzfeed.com
PGP: <http://bit.ly/1hpZzsd>

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