



**Homeland
Security**

Privacy Office, Mail Stop 0655

July 6, 2021

SENT VIA E-MAIL TO: info@aflegal.org

Gene Hamilton
600 14th Street NW, 5th Floor
Washington, D.C., DC 20005

Re: **2021-HQFO-01147**

Dear Mr. Hamilton:

This letter acknowledges receipt of your Freedom of Information Act (FOIA) request to the Department of Homeland Security (DHS), dated June 24, 2021, and to your request for a waiver of all assessable FOIA fees. Our office received your request on June 24, 2021. Specifically, you requested:

- A. All records, including but not limited to electronic mail, texts, memoranda, and handwritten notes, of, regarding, referring, or relating changes in leadership for the position of CBP Deputy Commissioner and Chief of Border Patrol. The timeframe for this request is January 20, 2021, to the date the records request is processed.

- B. All communications related to changes in leadership for the position of CBP Deputy Commissioner and Chief of Border Patrol from, to, or in the possession of any of the following components:
 1. Office of the Secretary
 2. Management Directorate
 3. Office of Strategy, Policy, and Plans
 4. Office of the General Counsel
 5. Office of Legislative Affairs
 6. Office of Public Affairs
 7. Office of Partnerships and Engagement
 8. Office of Operations Coordination
 9. Office for Civil Rights and Civil Liberties

The timeframe for this request is January 20, 2021, to the date the records request is processed.

C. All communications related to changes in leadership for the position of CBP Deputy Commissioner and Chief of Border Patrol from, to, or in the possession of any of the following custodians:

1. Alejandro Mayorkas
2. David Pekoske
3. Karinda L. Washington
4. Marsha Espinosa
5. David Gersten
6. Karen Olick
7. Clarissa Kornell
8. Kelli Ann Burriesci
9. Michelle Brané
10. Sarah Peck
11. Heather Fluit
12. Katherine Culliton-González
13. Britton Yee
14. Brian Hyer
15. Jason Mayer
16. Traci Silas
17. Alexandra Carnes
18. Harlan Geer
19. Eva Millona
20. Joel T. Meyer
21. David Shahoulian
22. Adam Hunter
23. Serena Hoy
24. Robert Paschall
25. David Cloe
26. Any person who has held the role of Chief of Staff
27. Any person who has held the role of Deputy Chief of Staff

The timeframe for this request is January 20, 2021, to date the records request is processed.

D. All communications related to changes in leadership for the position of CBP Deputy Commissioner and Chief of Border Patrol between any person at DHS and the Executive Office of the President. For this request, responsive records will include any communications with any email address ending in “who.eop.gov” relating to personnel or staffing at CBP. The timeframe for this request is January 20, 2021, to date the records request is processed.

E. All communications between DHS staff in the Office of the Secretary or the Office of Policy related to changes in leadership or personnel at CBP. The timeframe for this request is January 20, 2021, to date the records request is processed.

- F. All communications between any political appointee at DHS related to changes in leadership at CBP. The timeframe for this request is January 20, 2021, to date the records request is processed.

Furthermore, due to the subject matter of your request, I am also transferring this request to the FOIA Officer for **Office for Civil Rights and Civil Liberties (CRCL)** for the portion of the request that seeks records from their office. Please find their contact information below:

Office for Civil Rights and Civil Liberties (CRCL)

Create an account to avoid delays! [DHS PAL](#)

Office for Civil Rights and Civil Liberties, Mail Stop 0190

ATTN: CRCL FOIA Officer

Department of Homeland Security

2707 Martin Luther King Jr. AVE SE

Washington, DC 20528-065

E-mail: crclfoia@hq.dhs.gov

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 non-commercial requesters, provide two hours of search time and process the first 100 pages at no charge to you. 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.

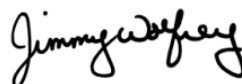
In the event that your fee waiver is denied, and you determine that you still want the records, provisions of the FOIA allow us to recover part of the cost of complying with your request. We shall charge you for records in accordance with the DHS FOIA regulations as they apply to non-commercial requesters. As a non-commercial requester you will be charged for any search time and duplication beyond the free two hours and 100 pages mentioned in the previous paragraph. You will be charged 10 cents per page for duplication and search time at the per quarter-hour rate (\$4.00 for clerical personnel, \$7.00 for professional personnel, \$10.25 for managerial personnel) of the searcher. 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 **2021-HQFO-01147**. 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,



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