

January 6, 2020

BY EMAIL: foia@hq.dhs.gov

Chief Privacy Officer/Chief FOIA Officer
The Privacy Office
U.S. Department of Homeland Security
245 Murray Lane SW
STOP-0655
Washington, D.C. 20528-0655

Re: Expedited Freedom of Information Act Request

Dear FOIA Officer:

Citizens for Responsibility and Ethics in Washington (“CREW”) makes this request for records pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, and U.S. Department of Homeland Security (“DHS”) regulations.

Specifically, CREW requests all documents from December 1, 2019 to the present relating to any order, directive, instruction, initiative, or protocol issued to DHS components concerning the screening, vetting, interrogation, questioning, or detention of individuals of Iranian national origin or with perceived ties to Iran appearing at U.S. ports of entry.

Please search for responsive records regardless of format, medium, or physical characteristics. We seek records of any kind, including paper records, electronic records, audiotapes, videotapes, photographs, data, and graphical material. Our request includes without limitation all correspondence, letters, emails, text messages, facsimiles, telephone messages, voice mail messages, and transcripts, notes, or minutes of any meetings, telephone conversations, or discussions. Our request also includes any attachments to emails and other records.

If it is your position any portion of the requested records is exempt from disclosure, CREW requests that you provide it with an index of those documents as required under *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973). If some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the requested records. *See* 5 U.S.C. § 552(b). If it is your position that a document contains non-exempt segments, but that those non-exempt segments are so dispersed throughout the document as to make segregation impossible, please state what portion of the document is non-exempt, and how the material is dispersed throughout the document. *See Mead Data Central v. U.S. Dep’t of the Air Force*, 566 F.2d 242, 261 (D.C. Cir. 1977).

Fee Waiver Request

In accordance with 5 U.S.C. § 552(a)(4)(A) and DHS regulations, CREW requests a waiver of fees associated with processing this request for records. The subject of this request concerns the operations of the federal government, and the disclosures likely will contribute to a

better understanding of relevant government procedures by CREW and the general public in a significant way. *See* 5 U.S.C. § 552(a)(4)(A)(iii). Moreover, the request primarily and fundamentally is for non-commercial purposes. *See, e.g., McClellan Ecological v. Carlucci*, 835 F.2d 1282, 1285 (9th Cir. 1987).

On January 5, 2020, the news media and advocacy groups reported that “[d]ozens of Iranians and Iranian-Americans were held for hours at Washington State’s border with Canada over the weekend as [DHS] ramped up security at border ports after Iran threatened to retaliate against the United States for the strike that killed its top military leader.”¹ Specifically, “[m]ore than 60 of the travelers, many returning from work trips or vacations, were trying to come home to the United States on Saturday when agents at the Peace Arch Border Crossing in Blaine, Washington held them for additional questioning about their political views and allegiances.”² A source at U.S. Customs and Border Patrol (“CBP”) reportedly informed the Council on American-Islamic Relations that DHS “has issued a national order to CBP to ‘report’ and detain anyone with Iranian heritage entering the country who is deemed potentially suspicious or ‘adversarial,’ regardless of citizenship status.”³

The requested records will shed light on any DHS directive to target individuals, including U.S. citizens, for additional screening or questioning based on their Iranian national origin. Because such a directive may itself be unlawful or could result in the widespread unlawful detention of Iranian-Americans, there is a compelling public interest in the requested records.

CREW is a non-profit corporation, organized under section 501(c)(3) of the Internal Revenue Code. CREW is committed to protecting the public’s right to be aware of the activities of government officials, to ensuring the integrity of those officials, and to highlighting and working to reduce the influence of money on politics. CREW uses a combination of research, litigation, and advocacy to advance its mission. CREW intends to analyze the information responsive to this request and to share its analysis with the public through reports, press releases, or other means. In addition, CREW will disseminate any documents it acquires from this request to the public through its website, www.citizensforethics.org. The release of information obtained through this request is not in CREW’s financial interest.

CREW further requests that it not be charged search or review fees for this request pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II) because CREW qualifies as a member of the news media. *See Nat’l Sec. Archive v. U.S. Dep’t of Defense*, 880 F.2d 1381, 1386 (D.C. Cir. 1989) (holding non-profit a “representative of the news media” and broadly interpreting the term to

¹ Zolan Kanno-Youngs, Mike Baker, Mariel Padilla, [U.S. Stops Dozens of Iranian-Americans Returning From Canada](https://www.nytimes.com/2020/01/05/us/politics/iranian-americans-border.html), *N.Y. Times*, Jan. 5, 2020, *available at* <https://www.nytimes.com/2020/01/05/us/politics/iranian-americans-border.html>.

² *Id.*

³ CAIR Press Release, CAIR-WA Assisting Iranian-Americans Detained at U.S. Border, Jan. 5, 2020, *available at* https://www.cair.com/breaking_cair_wa_assisting_iranian_americans_detained_u_s_border.

include “any person or organization which regularly publishes or disseminates information to the public”).

CREW routinely and systematically disseminates information to the public in several ways. CREW’s website receives tens of thousands of page views every month. The website includes a blog that reports on and analyzes newsworthy developments regarding government ethics, corruption, and money in politics, as well as numerous reports CREW has published to educate the public about these issues. In addition, CREW posts the documents it receives under the FOIA on its website, and that site has been visited hundreds of thousands of times.

Under these circumstances, CREW satisfies fully the criteria for a fee waiver.

Request for Expedition

Finally, please be advised that CREW also has requested expedition of this request because its subject matter is of widespread and exceptional media interest and the requested information involves possible questions about the government’s integrity that affect public confidence. Pursuant to DHS regulations, CREW submitted that request to the Senior Director of FOIA Operations; a copy of the request is attached.

Conclusion

If you have any questions about this request or foresee any problems in fully releasing the requested records, please contact me at (202) 408-5565 or nsus@citizensforethics.org. Also, if CREW’s request for a fee waiver is not granted in full, please contact our office immediately upon making such a determination.

Where possible, please produce records in electronic format. Please send the requested records to me at either nsus@citizensforethics.org or Nikhel Sus, Citizens for Responsibility and Ethics in Washington, 1101 K St., N.W., Suite 201, Washington, D.C. 20005. Thank you for your assistance.

Sincerely,



Nikhel Sus
Senior Counsel