



Homeland Security

Office of Inspector General

Washington, DC 20528

www.oig.dhs.gov

AUG 16 2012

Ms. Melissa Crow
American Immigration Council
1331 G Street NW, Suite 200
Washington, DC 20005

Subject: Freedom of Information Act Request No. 2012-135 – Final Response

Dear Ms. Crow:

This responds to your Freedom of Information Act (FOIA) request to the Department of Homeland Security (DHS) Office of Inspector General (OIG), dated May 31, 2012, and seeking records related to U.S. Customs and Border Protection (CBP) participation in 9-1-1 dispatch activities, from January 2009 to the present (copy attached for reference). Your request was received in this office on June 18, 2012.

The DHS-OIG conducts independent investigations, audits, inspections, and special reviews of DHS personnel, programs, and operations to detect and deter waste, fraud, and abuse, and to promote integrity, economy, and efficiency within DHS. In response to your request, a search of the DHS-OIG's Offices of Audits (AUD), Inspections (ISP) and Investigations (INV) was conducted. As we explained in our conversation with you on July 3, 2012, that search resulted in no responsive records to your original request.

In our follow up email of July 25, 2012, we agreed on search terms for a second search in INV. An exhaustive search was conducted within DHS-OIG's investigative indices electronically using the following search terms: "Customs and Border Protection," "CBP," "Border Patrol," "BP," "9-1-1 call," "9-1-1 dispatch," "911," "911 call," "911 dispatch," "911 Emergency dispatch," "dispatch," and "Emergency" (email attached for reference). Because of the broad nature of these search terms, INV responded with a list of hundreds of complaints and/or investigations on the affected agency CBP. The FOIA Unit then extracted those cases manually that may have been responsive to your request in the attached spreadsheet. We reviewed the responsive records under the FOIA to determine whether they may be accessed under the FOIA's provisions. Based on that review, this office is providing the following:

- _____ page(s) are being released in full (RIF);
- 2 page(s) are being released in part (RIP);
- _____ page(s) are withheld in full (WIF);
- _____ page(s) are duplicate copies of material already processed;
- _____ page(s) are non-responsive to your request and therefore withheld in full;
- _____ page(s) were referred to another entity.

The exemptions cited for withholding records or portions of records are marked below.

Freedom of Information Act, 5 U.S.C. § 552			Privacy Act, 5 U.S.C. § 552a
<input type="checkbox"/> 552(b)(1)	<input type="checkbox"/> 552(b)(4)	<input type="checkbox"/> 552(b)(7)(B)	<input type="checkbox"/> 552a(j)(2)
<input type="checkbox"/> 552(b)(2)	<input type="checkbox"/> 552(b)(5)	<input checked="" type="checkbox"/> 552(b)(7)(C)	<input type="checkbox"/> 552a(k)(2)
<input type="checkbox"/> 552(b)(3)	<input checked="" type="checkbox"/> 552(b)(6)	<input type="checkbox"/> 552(b)(7)(D)	<input type="checkbox"/> 552a(k)(5)
	<input checked="" type="checkbox"/> 552(b)(7)(A)	<input type="checkbox"/> 552(b)(7)(E)	<input type="checkbox"/> Other:

OIG redacted from the enclosed documents, names and identifying information of third parties to protect the identities of these individuals. Absent a Privacy Act, the release of such information concerning the third parties named in these records would result in an unwarranted invasion of personal privacy in violation of the PA. That information is also protected from disclosure pursuant to Exemptions 6 and 7(C) of the FOIA.

Exemption 6, 5 U.S.C. § 552(b)(6)

Exemption 6 allows withholding of "personnel and medical files and *similar files* the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." See 5 U.S.C. § 552(b)(6)(emphasis added). DHS-OIG is invoking Exemption 6 to protect: the names and initials of lower level employees, non-agency employees, and private citizens.

Exemption 7(A), 5 U.S.C. § 552(b)(7)(A)

Exemption 7(A) authorizes the withholding of "records or information compiled for law enforcement purposes...to the extent that production of such law enforcement records or information...could reasonably be expected to interfere with enforcement proceedings." See 5 U.S.C. § 552(b)(7)(A). DHS-OIG is invoking Exemption 7(A) to protect information pertaining to investigations within this list of narratives that include ongoing proceedings.

DHS-OIG also asserts Exemptions (b)(6) and (7)(C) for this information. Although other exemptions may be applicable to this information, DHS-OIG is not in a position to assert other exemptions at this time since these matters are still pending. An enclosure to this letter provides a brief explanation for additional exemptions that may be present.

Exemption 7(C), 5 U.S.C. § 552(b)(7)(C)

Exemption 7(C) protects from public disclosure "records or information compiled for law enforcement purposes...[if disclosure] could reasonably be expected to cause an unwarranted invasion of personal privacy." See 5 U.S.C. § 552(b)(7)(C). The DHS-OIG is invoking Exemption 7(C) to protect the identities of law enforcement agents, third parties mentioned or referenced during the conduct of the investigation, and any information that could reasonably be expected to identify such individuals.

Fees

Regarding your request for a fee waiver, because there were only two responsive pages, your fee waiver request is moot.

You have the right to appeal this response. Your appeal must be in writing and received within 60 days of the date of this response. Please address **any** appeal to:

FOIA/PA Appeals Unit
DHS/Inspector General
STOP 2600
245 Murray Drive, SW, Building 410
Washington, DC 20528

Both the envelope and letter of appeal must be clearly marked, "Freedom of Information Act/Privacy Act Appeal." Your appeal letter must also clearly identify the DHS-OIG's response. Additional information on submitting an appeal is set forth in the DHS regulations at 6 C.F.R. § 5.9. If you have any questions about this response please contact Kirsten Teal, FOIA/PA Disclosure Specialist, at 202-632-0346.

The Office of Government Information Services (OGIS) also mediates disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. If you wish to contact OGIS, you may email that entity at ogis@nara.gov or call 877-684-6448.

Sincerely,



Katherine R. Gallo
Assistant Counsel to the Inspector General

Enclosures

Case Number	Received Date	Opened Date	Closed Date	Narrative	Allegation Code	Allegation Category	Allegation Detail	Action Desc	Disposition Type	Allegation Status	Occupation	Violation Code	Violation Desc	Allegation Type
C09-CBP-SND-10361	3/10/2009	3/10/2009	7/20/2009	On December 2, 2008, the Joint Intake Center (JIC), Washington D.C., received a letter from [REDACTED] reporting a formal complaint regarding CBP Border Patrol Agents (BPAs) who responded to what [REDACTED] thought to be a routine traffic stop. [REDACTED] reported that the BPAs drew their firearms on [REDACTED] as [REDACTED] was walking backward with [REDACTED] hands on the top of [REDACTED] head. The Imperial County Sheriff's office (ICSO) support team was apparently called to assist the two BPAs. [REDACTED] wrote: [REDACTED]	2.6.1.3	Civil Rights / Civil Liberties	Detainee / Prisoner / Suspect Related Abuse	Detainee	Referred - No Reply	Legacy Allegation	DHS Employee			Use of unnecessary force
C09-CBP-TUC-10602	7/23/2009	7/23/2009	7/23/2009	Identified Caller reported [REDACTED] illegal alien, was apprehended after approaching a private citizen's home. Caller stated [REDACTED] teeth were broken. When [REDACTED] was taken into custody by the Pinal County Sheriff's Office, [REDACTED] told the arresting officer that [REDACTED] had been hit in the mouth with a rock by a border patrol agent while attempting to escape them when [REDACTED] was on a train in Green Valley. [REDACTED] this information with the railway, and [REDACTED] that two agents were indeed at the scene. [REDACTED] Agent [REDACTED] and Agent [REDACTED] were both asked to write administrative statements regarding the situation. [REDACTED] to the hospital to provide treatment authorization and obtain a statement.	2.6.1.3	Civil Rights / Civil Liberties	Detainee / Prisoner / Suspect Related Abuse	Detainee	Referred - No Reply	Legacy Allegation	DHS Employee			Use of unnecessary force
K09-CBP-MIA-10719	8/13/2009	8/13/2009	6/2/2010	DHS OIG Miami Office responded to the residence of [REDACTED] CBP officer, Miami International Airport, in reference to a shooting. Earlier reports were that the Hialeah Police Department responded to the residence after [REDACTED] had reportedly committed suicide using [REDACTED] duty issued weapon.	2.11.1	Civil Rights / Civil Liberties	Use of Force	Weapon Related - Intentional Firearm Shootings / Discharges	Admin Closure	Substantiated	DHS Employee	Other	Violation	Firearms discharge

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110-CBP-BOS-00810	4/16/2010	4/27/2010	12/21/2010	<p>On April 23, 2010, the Joint Intake Center (JIC), Washington, D.C., received Customs and Border Protection (CBP) significant incident report (SIR) regarding an on duty shooting incident involving CBP Border Patrol Agent (BPA) [REDACTED]. ME, Initial reporting indicates that BPA [REDACTED] fired an unknown number of shots at a subject with [REDACTED] service weapon near [REDACTED]. ME, The Maine State Police requested assistance with a barricaded subject. BPA [REDACTED] and BPA [REDACTED] ME, responded. When the Maine State Trooper and the agents went inside the residence, the subject presented [REDACTED] weapon, at which time BPA [REDACTED] and the Trooper fired their weapons. The subject was struck. It is unknown whether BPA [REDACTED] or the Trooper's rounds struck the subject. The subject was transported to a local hospital. 05/04/10, OIG/HQ assigned investigation to PFO/SDS on April 27, 2010. Per conversation between SACs [REDACTED] and [REDACTED], joint investigation with OIG and CBP/JA. Maine Attorney General's Office Investigator [REDACTED] will forward employee statements to investigators. *Additional information received 5/10/2010. This report opened under case 11000888</p>	2.11.1	Civil Rights / Civil Liberties	Use of Force	Weapon Related - Intentional Firearm Shootings / Discharges	Referred - No Reply	Judicial Disposition	Unfounded	OHS Employee	18 USC 242	Deprivation of Rights Under Color of Law	Firearms discharge

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7A open investigation

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