



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. 2012-139 – 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) providing interpretation and/or translation services to other law enforcement agencies, 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 a subsequent email dated July 23, 2012, you provided us with a letter describing alleged incidents pertaining to your request (email attached for reference). In our follow up email dated July 25, 2012, we also agreed on search terms for a second search of INV (email attached for reference). An exhaustive search was conducted within DHS-OIG's investigative indices electronically using information from the above-referenced letter, and the following search terms: "Customs and Border Protection," "CBP," "Border Patrol," "BP," "language," "translate," "interpreted," "interpretation assistance," "translation assistance," "interpreter," and "translator," "translation service," "language service," "English," "translat," and "interpret."¹

That search resulted in the enclosed spreadsheet, two complaint intake documents and another complaint intake document, which continues to be an open investigation. We reviewed the attached eight pages 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:

¹ 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 be responsive to your request in the attached spreadsheet.

1 page(s) are being released in full (RIF);
7 page(s) are being released in part (RIP);
1 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 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 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 eight 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

Requester's Name: Ms. Melissa Crow

FOIA/PA NO.: 2012-139

MIXED DOCUMENTS

1 (RIF)

7 (RIP)

1 (WIF)

 (DUP)

 (NR)

 Referred

EXEMPTIONS CITED

(b)(6) (7)(A) (7)(C)

Deletion Page

Requester: Ms. Melissa Crow

Request #: 2012-139

1 Page(s) is/are being withheld in full
by DHS/OIG and the following
marked exemption(s) is/are being
claimed.

EXEMPTIONS CLAIMED:

FOIA: 5 U.S.C. § 552

☐ b(1) ☐ b(2) ☐ b(3): _____
☐ b(4) ☐ b(5) ☐ b(6) ☒ b(7)(A) ☐ b(7)(C) ☐ b(7)(D)
☐ b(7)(E) ☐ b(7)(F)

PRIVACY ACT: 5 U.S.C. § 552a

☐ d(5) ☐ j(1) ☐ j(2) ☐ k(1) ☐ k(2) ☐ k(3)
☐ k(4) ☐ k(5) ☐ k(6) ☐ k(7)

Description of Document withheld:

A complaint intake document on an open law enforcement investigation.



Enforcement Data System v2.1.3

Office of Inspector General

Logged In As: [REDACTED] (System Administrator)

Tuesday, July 24, 2012

Investigations

RIP b6 7C

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Search Case Data

[Modify Search](#)[New Search](#)

Search Results (3)

Case Number	Title	Primary Office	Agent Name	Individual	Case Role	Status	
C1201182	LNU, FNU; CBP; Position Unknown; Tacoma, WA	Seattle, WA		[REDACTED]	Complainant	Closed Not Converted	View/Print Case Summary Report
C1201182	LNU, FNU; CBP; Position Unknown; Tacoma, WA	Seattle, WA		FNU LNU	Subject	Closed Not Converted	View/Print Case Summary Report
C1201182	LNU, FNU; CBP; Position Unknown; Tacoma, WA	Seattle, WA		[REDACTED]	Victim	Closed Not Converted	View/Print Case Summary Report



Office of Inspector General

Enforcement Data System v2.1.3

Logged in As: [REDACTED] (System Administrator)

Tuesday, July 24, 2012

Hotline

Role: Hotline Manager

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[Dashboard](#) [DHS Emp Search](#) [Re-Assign](#) [Search Case Data](#) [Case Special Skills](#) [Reports](#) [QIR](#)

Complaint # - C1201182 Complaint Title - LNU, FNU; GBP; Position Unknown; Tacoma,... Status - Closed Not Converted

Initiation People Staff Violations Dates Location of Offense Notes
 Technical Elements Disposition Significant Investigative Activity Upload Documents
 Related/Consolidated Records Generate Letters Log MIR Collaterals ROI-Action

Initiate Investigation

[Return](#)

Investigation Title LNU, FNU; CBP; Position Unknown; Tacoma, WA

Chars left 157

[Spell Check](#)Individual or
DHS/JointOther
Reference
Number

HC1201174

[Add More](#)

OIG Office Seattle, WA

Primary Agent *

Date Assigned *

Date
Complaint
Received

10/24/2011 *

Civil Rights

Complaint ☒Complaint Confidential ☐

Received By Hotline *

Received From

DHS Agency
Affected

CBP - U.S. Customs and Border Protection

Allegation
Category

Employee Corruption

Allegation

Deliberate Disclosure of Classified / Law Enforcement / National Security Related information

Allegation
Detail

Law Enforcement Sensitive Material

Narrative

On October 18, 2011, CRCL received email correspondence from [REDACTED] of Northwest Immigrant Rights Project, on behalf of [REDACTED] (A [REDACTED]), a detainee at Northwest Detention Center in Tacoma, Washington, alleging that on September 3, 2011, CBP officers at the farmers market in Port Angeles, Washington approached [REDACTED] and [REDACTED], asked for their identification, but [REDACTED] had LEP issues when trying to understand everything that the agents were asking for, then the agents arrested [REDACTED] after [REDACTED] presented [REDACTED] Washington identification and an expired driver's license. [REDACTED] primary language is Korean. [REDACTED] states that according to the I-213, the agents allege that [REDACTED] stated that [REDACTED] did not have any other documents on [REDACTED] when questioned about [REDACTED] immigration status; however, [REDACTED] states that the [REDACTED] barely understand English and an interpreter was not provided.

Chars left 3044

[Spell Check](#)

Dollar Loss \$0.00

Privacy
ViolationComplaint ☐[Save](#)[Cancel](#)

* Required Field



Enforcement Data System v2.1.3

Office of Inspector General

Logged In As: [REDACTED] (System Administrator)

Tuesday, July 24, 2012

Investigations

Role: IT Admin

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Search Case Data

[Modify Search](#)[New Search](#)

Search Results (4)

Case Number	Title	Primary Office	Agent Name	Individual	Case Role	Status	
C1112064	LNU, FNU; BPA, CBP, Forks, WA	Seattle, WA		FNU LNU	Subject	Closed Not Converted	View/Print Case Summary Report
C1112064	LNU, FNU; BPA, CBP, Forks, WA	Seattle, WA		[REDACTED]	Victim	Closed Not Converted	View/Print Case Summary Report
C1112064	LNU, FNU; BPA, CBP, Forks, WA	Seattle, WA		[REDACTED]	Victim	Closed Not Converted	View/Print Case Summary Report
C1112064	LNU, FNU; BPA, CBP, Forks, WA	Seattle, WA		[REDACTED]	Victim	Closed Not Converted	View/Print Case Summary Report



Office of Inspector General

Enforcement Data System
v2.1.3

Logged In As: [REDACTED] (System Administrator)

Tuesday, July 24, 2012

Hotline

Role: Hotline Manager

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[Dashboard](#) [DHS Emp Search](#) [Re-Assign](#) [Search Case Data](#) [Case Special Skills](#) [Reports](#) [QIR](#)

Complaint # -
C1112064

Complaint Title - LNU, FNU;
BPA, CBP, Forks, WA

Status - Closed Not
Converted

Initiation People Staff Violations Dates Location of Offense Notes
Technical Elements Disposition Significant Investigative Activity Upload Documents
Related/Consolidated Records Generate Letters Log MIR Collaterals
ROI-Action

Initiate Investigation

[Return](#)

Investigation Title LNU, FNU; BPA, CBP, Forks, WA

Chars left 171

[Spell Check](#)Individual or
DHS/JointOther
Reference Number HC1105127, C1105127[Add More](#)

OIG Office Seattle, WA

Primary Agent

Date
AssignedDate
Complaint Received 6/30/2011Civil Rights
ComplaintComplaint Confidential ☐

Received By Hotline

Received
From

DHS Agency Affected CBP - U.S. Customs and Border Protection

Allegation Category Civil Rights / Civil Liberties

Allegation

Narrative

On June 24, 2011, CRCL received email correspondence from [REDACTED] of the Northwest Immigrant Rights Project on behalf of [REDACTED] (A [REDACTED]), and [REDACTED] (A [REDACTED]). Allegedly on the morning of May 17, 2011, [REDACTED] and [REDACTED] were wrongly stopped by Border Patrol for erratic driving, but only questioned about immigration status, then detained with no probable cause, since [REDACTED] and [REDACTED] invoked their right to remain silent. The incident occurred South on Highway 101 approximately 25 miles south of Forks, Washington.

[REDACTED] states that the agent wrote in the I-213 that [REDACTED] conducted the traffic stop for "public safety reasons" because the driver was driving "erratically"; however, the agent had been following the vehicle for 10 miles and initially told the complainants that they were stopped because of a broken tail-light. Allegedly, all [REDACTED] complainants presented the agent with valid

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[Spell Check](#)

Dollar Loss \$0.00

Privacy
ViolationComplaint ☐

Required Field

Case Number	Received Date	Opened Date	Closed Date	Narrative	Allegation Code	Allegation Category	Allegation	Allegation Detail	Action Desc	Disposition Type	Allegation Status	Occupation	Violation Code	Violation Desc	Allegation Type		
CD9-CBP-LAX-04677	2/6/2009	2/6/2009	2/6/2009	<p>On February 5, 2009, the AC, Washington, DC, received an email from CIS, Arlington Office [REDACTED] CA, reporting that [REDACTED] conducted a Credible Fear interview with applicant [REDACTED].</p> <p>During the interview, the applicant made the following allegations: "Question: A Border Patrol Agent spoke to you and you said you had no fear of returning to El Salvador? Answer: Yes, I said that because they told me you are going to be here several months before we deport you. [REDACTED] said several months. I asked how many months. I did not want to sign. I wanted to fight for that but they insulted me with words and me without knowing English. They did not allow me. That day, I had four days without eating or sleeping. They made me sign."</p>	4.8.13.1	Miscellaneous	Non-Criminal Misconduct	Management	Referred - No Reply		Legacy Allegation	DHS Employee					job performance failure

b6 7C

RIP b6 7C