

Exhibit A

From: Melissa Chua <mchua@nylag.org>
Sent: Tuesday, September 29, 2020 3:02 PM
To: Ice-foia@dhs.gov; foia@hq.dhs.gov
Subject: Freedom of Information Act Request
Attachments: NYLAG FOIA Request to ICE FINAL.pdf

Please see the attached request under the Freedom of Information Act.

Sincerely,
Melissa Chua

Melissa Chua

Associate Director, Immigrant Protection Unit

Pronouns: She, her, hers

7 Hanover Square | New York, NY 10004

t: 212.613.6547





United States Immigration & Customs Enforcement
Freedom of Information Act Office
500 12th Street, SW, Stop 5009
Washington, D.C. 20536-5009
Ice-foia@dhs.gov

Department of Homeland Security
Jimmy Wolfrey
Privacy Office, Mail Stop 0655
2707 Martin Luther King Jr. AVE SE
Washington, DC 20528-065
foia@hq.dhs.gov

VIA ELECTRONIC MAIL

September 29, 2020

RE: Freedom of Information Act Request for Records Relating to Deployment of
Immigration & Customs Enforcement Personnel to Protests in New York City

To Whom It May Concern:

This request for records is submitted pursuant to the Freedom of Information Act, 5 U.S.C. § 552 et seq. (“FOIA”), on behalf of the New York Legal Assistance Group (“NYLAG”), for records related to the mobilization of personnel from Immigration & Customs Enforcement (“ICE”) and Homeland Security Investigations (“HSI”), or any other agencies within the Department of Homeland Security (“DHS”), in response to protests in New York City. NYLAG is a nonprofit legal services organization that seeks these records in the public interest and for non-commercial use. We ask that you please direct this request to all appropriate offices and departments within each agency.

I. Background

In recent months, in response to the May 25, 2020 killing of George Floyd, protesters have rallied against police violence in New York City. According to numerous press reports, federal agents, including ICE and HSI officers, are playing a central role in monitoring these protests. For example, in early June, a U.S. citizen (and army veteran) was violently arrested by ICE and/or HSI officers while participating in a protest on the Upper West Side of New York City. An ICE official confirmed that its agents were involved in the arrest.¹ In a statement to CNN,

¹ Mazin Sidahmed, *Video Shows ICE Agents Arresting a Protester in NYC*, DOCUMENTED (June 5, 2020), <https://documentedny.com/2020/06/05/video-shows-ice-agents-arresting-a-protestor-in-nyc/>.

ICE admitted that its “personnel and Special Response Teams have been deployed to protect agency facilities and assets in support of the Federal Protective Service and assist local, state and federal law enforcement partners as needed.”²

The deployment of law enforcement personnel from ICE and HSI raises a number of serious concerns. First, it is unclear what legal authority, if any, the federal government had in deploying ICE and HSI personnel. Second, although an ICE spokesperson stated that ICE personnel would not be conducting immigration enforcement,³ ICE has not made clear whether ICE personnel would be conducting surveillance, collecting information, or performing other law enforcement functions in addition to protecting agency facilities and assisting local law enforcement. Third, the presence of ICE personnel, who are routinely associated with conducting immigration raids, may deter minorities and immigrants from exercising their First Amendment rights to peacefully protest.

In light of this, NYLAG respectfully requests that ICE provide the following records on an expedited basis.

II. Definitions

1. Agreement(s). In this request the term “agreement(s)” refers to any contract, arrangement, or understanding, formal or informal, oral or written, between two or more persons or entities, including, but not limited to, memoranda of understanding.
2. CLEAR. In this request the term “CLEAR” refers to the Thomson Reuters CLEAR software, an online investigation software.
3. Communication(s). In this request the term “communication(s)” means the disclosure, exchange, or transmittal of information or opinion, however made, including but not limited to e-mails, text messages, phone calls or radio transmissions that were recorded, or other electronic transmissions made over agency infrastructure.
4. Local Government(s). In this request the term “local government(s)” includes state/local government, municipal corporations, tribal governments, tribal business entities, and Alaska Native Corporations.
5. Protest(s). In this request the term “protest(s)” includes, but is not limited to, physical gatherings such as assemblies, rallies, vigils, or public demonstrations of any kind.
6. Record(s). In this request the term “record(s)” includes, but is not limited to, all Records or communications preserved in electronic (including metadata) or written form, such as

² Priscilla Alvarez, *ICE deploying personnel and teams nationwide in response to protest unrest*, CNN (June 1, 2020), https://www.cnn.com/us/live-news/george-floyd-protests-06-01-20/h_0871e84fa1e97f5df617c4fe7880de7e.

³ *Id.*

agenda, analyses, audio tapes, correspondence, data, documents, emails, evaluations, faxes, files, guidance, guidelines, instructions, internal policy guidance, legal opinions or memoranda, monitoring mechanisms, notes, operating procedures, orders, policies, presentations, procedures, protocols, reports, rules, studies, talking points, technical manuals, technical specifications, training materials, videotapes, or any other Record of any kind.

7. Surveillance. In this request the term “surveillance” means any form of physical or non-physical/virtual observation, monitoring, recording, or transcription, whether conducted by an individual or through automated means such as by software, aerial surveillance vehicles (“drones”) or mounted cameras.
8. Target List(s). In this request the term “target list(s)” means any list(s) of individuals and associated data assembled and/or created by any government agency or privately-contracted vendor for a government agency that is sent and/or used by any component of DHS to identify, track, surveil and/or arrest people.
9. Thomson Reuters/TRSS. In this request the term “Thomson Reuters/TRSS” refers to Thomson Reuters Special Services.

III. Request for Information

1. Records relating to the authorization of ICE, HSI, or any other DHS personnel to respond to, assist in responding to, and/or support other law enforcement efforts related to Protests occurring in New York City between May 25, 2020, and the date of this request. This includes policies, operating procedures, rules, internal policy guidance, training materials, monitoring mechanisms, email messages, legal opinions or memoranda.
2. Records relating to any questioning, arrest, or surveillance activities of ICE, HSI, or any other DHS personnel related to Protests occurring in New York City between May 25, 2020, and the date of this request. This includes the presence of ICE HSI agents outside or around New York Police precincts, any limitations placed on ICE infogathered associated with such activities, any information or datasharing between NYPD and DHS/ICE.
3. Any and all records relating to the process ICE, HSI, or DHS use or have used to determine targets for Surveillance at Protests occurring in New York City between May 25, 2020, and the date of this request, including any Target Lists. Such records include, but are not limited to, the following:
 - Manuals, policies, or other guidance describing the use of CLEAR database in ICE operations;

- Any and all records, including slides or other materials from trainings, on how target lists are built or created, including the keywords “TRSS” or “Thomson Reuters” or “CLEAR”;
 - Target lists sent from ICE to Thomson Reuters/TRSS and Thomson Reuters/TRSS response to those lists, including information regarding all personal data⁴ searched and lists of all targets confirmed or rejected as “false positives”;
 - All related communications between ICE and Thomson Reuters/TRSS including responses by ICE to the target lists.
4. Any Communications or Agreements with Local Government in New York City, including but not limited to the NYPD, relating to the deployment of ICE, HSI, or DHS personnel, equipment, and/or resources to support law enforcement efforts in New York City. Please also provide a list of all divisions of New York City Local Government (including, but not limited to, any task forces within the NYPD) that have Agreements with ICE, HSI, or DHS.
 5. Communications or Agreements between ICE, HSI, or DHS, on the one hand, and Local Government in New York City, such as the NYPD, on the other hand, relating to the deployment of ICE, HSI, or DHS personnel, equipment, and/or resources to support law enforcement efforts undertaken in connection with Protests occurring in New York City between May 25, 2020, and the date of this request.
 6. Presentations or other documents distributed in connection with meetings and/or teleconferences between ICE, HSI, or DHS personnel and Local Government in New York City, such as the NYPD. Such Records include, but are not limited to, meeting agenda, meeting minutes, presentations or other materials distributed either in electronic format or hardcopy to meeting participants, and any other materials used by or shown to meeting participants.
 7. Any Communications between ICE, HSI, or DHS personnel and private security companies or personnel relating to the deployment of ICE, HSI, or DHS personnel, equipment, and/or resources to support law enforcement efforts undertaken in connection with Protests occurring in New York City between May 25, 2020, and the date of this request.
 8. Records relating to information that ICE, HSI, or DHS personnel collected or sought to collect from protesters before, during, and after Protests occurring in New York City between May 25, 2020 and the date of this request, including the intended use of such Records.
 9. Records relating to any arrests conducted by ICE, HSI, or other DHS personnel at Protests occurring in New York City between May 25, 2020, and the date of this request.

⁴ We are not requesting personal information for individuals on this list.

Please redact any personally identifying information (such as names, social security numbers, addresses, and phone numbers) from the arrest records, but not a report of the arrest incident and other non-personally identifying information. For purposes of this request, arrest records include Field Operations Worksheet, or Form I-213.

IV. Format of Production

Please search for responsive records regardless of format, medium, or physical characteristics, and including electronic records. Please provide the requested documents in the following format:

- Provided via email or on a CD, DVD, hard drive or other hardcopy media;
- In PDF format wherever possible;
- Electronically searchable wherever possible;
- Each paper record in a separately saved file;
- “Parent-child” relationships maintained, meaning that the Requester must be able to identify the attachments with emails;
- Any data records in native format (*i.e.*, Excel spreadsheets in Excel);
- Emails should include BCC and any other hidden fields;
- With any other metadata preserved.

V. Request for Expedited Processing

NYLAG requests expedited processing of this request because there is a “compelling need” for the information. *See* 5 U.S.C. § 552(a)(6)(E)(i)(I). A “compelling need” exists where there is an “urgency to inform the public concerning actual or alleged Federal Government activity,” and the requesting party is “primarily engaged in disseminating information.” 6 C.F.R. § 5.5(e)(ii).

There is an urgent need to inform the public of the legitimacy of ICE and HSI personnel’s presence at protests in New York City, especially given the increased surveillance that ICE is conducting in sanctuary cities, including New York City, under the so-called Operation Palladium.⁵ In addition, President Trump has recently threatened to send even more federal agents to New York City to crack down protests.⁶ The reasoning behind sending additional federal law enforcement is unclear and would only induce more anxiety among minorities and immigrants, who already feel unsafe under the constant surveillance, and could limit their right to exercise their First Amendment rights.

⁵ Caitlin Dickerson, Zolan Kanno-Youngs, and Annie Correal, “*Flood the Streets*”: ICE Targets Sanctuary Cities with Increased Surveillance, N.Y. TIMES (Mar. 3, 2020), <https://www.nytimes.com/2020/03/05/us/ICE-BORTAC-sanctuary-cities.html>.

⁶ Jake Offenhartz, *Trump Threatens to Send Federal Agents to Police NYC: “I’m Going to Do Something”*, GOTHAMIST (July 20, 2020), <https://gothamist.com/news/trump-threatens-send-federal-agents-police-nyc-im-going-do-something>.

NYLAG and its advocacy partners disseminate information to the public free of charge through their websites and the production of reports. In conjunction with their community partners, NYLAG conducts presentations and prepares and circulates flyers in multiple languages throughout the community and to disseminate information about immigration enforcement, immigration benefits, and the rights of immigrants. Specifically, NYLAG conducts Know Your Rights presentations in communities around New York City to educate and to protect the rights of immigrants and protesters. In addition, NYLAG and its advocacy partners participate in public hearings before government officials to share information about immigration law and enforcement. Finally, NYLAG and its advocacy partners disseminate information through its website and social media channels to raise awareness about immigration policy and enforcement.

VI. Request for Fee Waiver

Pursuant to 5 U.S.C. § 552(a)(4)(A)(iii), NYLAG requests the waiver of all fees associated with this request. Disclosure of the requested information to NYLAG is in the public interest because it is likely to contribute significantly to public understanding of the presence of ICE and HSI personnel at protests in New York City, and ICE's activities more generally. This request will serve no commercial interest because NYLAG is a nonprofit organization dedicated to providing free legal services to low-income New Yorkers, many of whom are minorities and/or immigrants. NYLAG seeks the requested information to assist it in conducting Know Your Rights presentations in communities around New York City to educate and to protect the rights of immigrants and protesters. NYLAG will also use the requested information to educate the public on issues of social justice and equality, and will disseminate such information to other nonprofit entities that are engaged in social justice work.

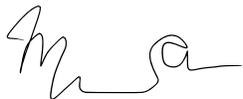
Should you deny this waiver request, NYLAG is willing to pay fees up to a maximum of \$25. If you estimate that the fees will exceed this limit, please advise the undersigned of the costs before proceeding.

NYLAG looks forward to receiving a determination pursuant to each request within twenty business days as required by 5 U.S.C. § 552(a)(6)(A)(i). Please also inform us on a rolling basis of the existence of any records responsive to any request as you identify them, regardless of whether additional records responsive to that or other requests may be identified in the future. We are willing to accept records in electronic format.

If for any reason any request is denied, please inform us of the reason(s) for the denial in writing. If this Request is denied in whole or in part, NYLAG asks that DHS and ICE identify the specific exemptions of FOIA for each denied Request. NYLAG requests that DHS and ICE release all segregable portions of otherwise exempt material, and reserves the right to appeal a decision to withhold any records, or to deny NYLAG's application for expedited processing or fee waiver. If you have any questions regarding this request, please contact Melissa Chua by phone at 212-613-5088 or by email at mchua@nylag.org.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Chua', with a stylized flourish at the end.

Melissa Chua
New York Legal Assistance Group
7 Hanover Square, 18th Floor
New York, New York 10004
mchua@nylag.org
(212) 613-5088

Exhibit B

From: "foia@hq.dhs.gov" <foia@hq.dhs.gov>
Date: Monday, October 5, 2020 at 2:44 PM
To: Melissa Chua <mchua@nylag.org>
Subject: Department of Homeland Security FOIA 2021-HQFO-00013 Acknowledgment

Good afternoon,

Attached is our acknowledgment of your DHS FOIA request. If you need to contact this office again concerning your request, please provide the DHS reference number. This will enable us to quickly retrieve the information you are seeking and reduce our response time. This office can be reached at 866-431-0486.

Regards,

DHS Privacy Office
Disclosure & FOIA Program
STOP 0655
Department of Homeland Security
245 Murray Drive, SW
Washington, DC 20528-0655
Telephone: 1-866-431-0486 or 202-343-1743
Fax: 202-343-4011
Visit our [FOIA website](#)



**Homeland
Security**

Privacy Office, Mail Stop 0655

October 5, 2020

SENT VIA E-MAIL TO: mchua@nylag.org

Melissa Chua
NYLAG
7 Hanover Square
18th Floor
New York, NY 10004

Re: 2021-HQFO-00013

Dear Ms. Chua:

This letter acknowledges receipt of your Freedom of Information Act (FOIA) request to the Department of Homeland Security (DHS), dated September 29, 2020, and your request for expedited handling and a waiver of all assessable FOIA fees. Our office received your request on September 29, 2020. Specifically, you requested:

1. Records relating to the authorization of ICE, HSI, or any other DHS personnel to respond to, assist in responding to, and/or support other law enforcement efforts related to Protests occurring in New York City between May 25, 2020, and the date of this request. This includes policies, operating procedures, rules, internal policy guidance, training materials, monitoring mechanisms, email messages, legal opinions or memoranda.
2. Records relating to any questioning, arrest, or surveillance activities of ICE, HSI, or any other DHS personnel related to Protests occurring in New York City between May 25, 2020, and the date of this request. This includes the presence of ICE HSI agents outside or around New York Police precincts, any limitations placed on ICE infogathered associated with such activities, any information or datasharing between NYPD and DHS/ICE.
3. Any and all records relating to the process ICE, HSI, or DHS use or have used to determine targets for Surveillance at Protests occurring in New York City between May 25, 2020, and the date of this request, including any Target Lists. Such records include, but are not limited to, the following:
 - a. Manuals, policies, or other guidance describing the use of CLEAR database in ICE operations;
 - b. Any and all records, including slides or other materials from trainings, on how target lists are built or created, including the keywords "TRSS" or "Thomson Reuters" or "CLEAR";

- c. Target lists sent from ICE to Thomson Reuters/TRSS and Thomson Reuters/TRSS response to those lists, including information regarding all personal data⁴ searched and lists of all targets confirmed or rejected as “false positives”;
 - d. All related communications between ICE and Thomson Reuters/TRSS including responses by ICE to the target lists.
4. Any Communications or Agreements with Local Government in New York City, including but not limited to the NYPD, relating to the deployment of ICE, HSI, or DHS personnel, equipment, and/or resources to support law enforcement efforts in New York City. Please also provide a list of all divisions of New York City Local Government (including, but not limited to, any task forces within the NYPD) that have Agreements with ICE, HSI, or DHS.
 5. Communications or Agreements between ICE, HSI, or DHS, on the one hand, and Local Government in New York City, such as the NYPD, on the other hand, relating to the deployment of ICE, HSI, or DHS personnel, equipment, and/or resources to support law enforcement efforts undertaken in connection with Protests occurring in New York City between May 25, 2020, and the date of this request.
 6. Presentations or other documents distributed in connection with meetings and/or teleconferences between ICE, HSI, or DHS personnel and Local Government in New York City, such as the NYPD. Such Records include, but are not limited to, meeting agenda, meeting minutes, presentations or other materials distributed either in electronic format or hardcopy to meeting participants, and any other materials used by or shown to meeting participants.
 7. Any Communications between ICE, HSI, or DHS personnel and private security companies or personnel relating to the deployment of ICE, HSI, or DHS personnel, equipment, and/or resources to support law enforcement efforts undertaken in connection with Protests occurring in New York City between May 25, 2020, and the date of this request.
 8. Records relating to information that ICE, HSI, or DHS personnel collected or sought to collect from protesters before, during, and after Protests occurring in New York City between May 25, 2020 and the date of this request, including the intended use of such Records.
 9. Records relating to any arrests conducted by ICE, HSI, or other DHS personnel at Protests occurring in New York City between May 25, 2020, and the date of this request.

Due to the subject matter of your request, I am transferring this request to the FOIA Officers for U.S. Customs and Border Protection (CBP), U.S. Secret Service (USSS), and the Federal Protective Services (FPS) for processing under the FOIA and direct response to you. Contact information is provided below for your convenience.

U. S. Customs & Border Protection (CBP)
FOIA Officer
U.S. Customs and Border Protection
90 K Street, NE
FOIA Division
Washington, DC 20229

Phone: 202-325-0150

CBP Website

United States Secret Service (USSS)

Freedom of Information Act and Privacy Act Branch

245 Murray Lane, SW Building T-5

Washington, D.C. 20223

FOIA Officer/Public Liaison: Kevin Tyrrell

Phone: 202-406-6370

Fax: 202-406-5586

E-mail: FOIA@uss.s.dhs.gov

USSS Website

Federal Protective Services

The Privacy Office

Privacy Office, Mail Stop 0655

Department of Homeland Security

2707 Martin Luther King Jr. AVE SE

Washington, DC 20528-065

Phone: 202-343-1743 or 866-431-0486

Fax: 202-343-4011

E-mail: foia@hq.dhs.gov

The Privacy Office has determined that it may also have purview over the records requested under Items 1, 4, 5, 6, and 8 of your request. We therefore will retain a copy of your request and conduct a search for the records described in Items 1, 4, 5, 6, and 8. The Privacy Office will respond directly to you.

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 a voluminous amount of separate and distinct records, 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-00013**. 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.

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,

A handwritten signature in black ink that reads "James VML Holzer, J." with a stylized flourish at the end.

James VML Holzer
Deputy Chief FOIA Officer

Exhibit C

From: no-reply@foiaonline.gov
Sent: Monday, October 5, 2020 3:59 PM
To: mchua@nylag.org
Subject: NT Acknowledgement Letter
Attachments: NT Acknowledgement Letter Letter.pdf

Melissa Chua

7 Hanover Square
18th Floor
New York, NY, 10004

10/05/2020

CBP-2021-000784

Dear Melissa Chua:

This notice acknowledges receipt of your Freedom of Information Act (FOIA) request to U.S. Customs and Border Protection (CBP) received on 10/05/2020. Please use the following unique FOIA tracking number CBP-2021-000784 to track the status of your request. If you have not already done so, you must create a FOIAonline account at <https://foiaonline.gov>. This is the only method available to check the status of your pending FOIA request.

Provisions of the Act 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 outlined on the DHS website, <https://www.federalregister.gov/documents/2016/11/22/2016-28095/freedom-of-information-act-regulations>. By submitting your request, you have agreed to pay up to \$25.00 in applicable processing fees, if any fees associated with your request exceed this amount, CBP shall contact you; however, the first 100 pages are free.

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, CBP processes FOIA requests according to their order of receipt. Although CBP's 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 pursuant to 6 C.F.R. Part 5 § 5.5(c). [As your request seeks documents that will require a thorough and wide-ranging search, CBP 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.] **OR** [As your request seeks a voluminous amount of separate and distinct records, CBP 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.] **OR** [As the subject matter of your request is of substantial interest to two or more components of CBP or of substantial interest to another agency, we will need to consult with those entities before we issue a final response. Due to these unusual circumstances, CBP 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.]

CBP's FOIA Division is working hard to reduce the amount of time necessary to respond to FOIA requests. We truly appreciate your continued patience.

For additional information please consult CBP FOIA website please click on [FOIA Act Resources](#) or visit <http://www.cbp.gov/site-policy-notice/foia>.

Sincerely,

U.S. Customs and Border Protection

Melissa Chua
7 Hanover Square
18th Floor
New York, NY, 10004

10/05/2020

CBP-2021-000784

Dear Melissa Chua:

This notice acknowledges receipt of your Freedom of Information Act (FOIA) request to U.S. Customs and Border Protection (CBP) received on 10/05/2020. Please use the following unique FOIA tracking number CBP-2021-000784 to track the status of your request. If you have not already done so, you must create a FOIAonline account at <https://foiaonline.gov>. This is the only method available to check the status of your pending FOIA request.

Provisions of the Act 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 outlined on the DHS website, <https://www.federalregister.gov/documents/2016/11/22/2016-28095/freedom-of-information-act-regulations>. By submitting your request, you have agreed to pay up to \$25.00 in applicable processing fees, if any fees associated with your request exceed this amount, CBP shall contact you; however, the first 100 pages are free.

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, CBP processes FOIA requests according to their order of receipt. Although CBP's 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 pursuant to 6 C.F.R. Part 5 §5.5(c). [As your request seeks documents that will require a thorough and wide-ranging search, CBP 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.] **OR** [As your request seeks a voluminous amount of separate and distinct records, CBP 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.] **OR** [As the subject matter of your request is of substantial interest to two or more components of CBP or of substantial interest to another agency, we will need to consult with those entities before we issue a final response. Due to these unusual circumstances, CBP 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.]

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For additional information please consult CBP FOIA website please click on [FOIA Act Resources](#) or visit <http://www.cbp.gov/site-policy-notice/foia>.

Sincerely,

U.S. Customs and Border Protection

Exhibit D

From: FOIA@usss.dhs.gov
Sent: Wednesday, October 7, 2020 9:25 AM
To: mchua@nylag.org
Subject: USSS 20210010
Attachments: Ack. Expedite Granted & Fee Waiver Abeyance. All Other Req. FOIA.PA.pdf

Dear Requester,

Please see the attached letter regarding the status of your FOIA/PA request. If you have any questions in regard to this matter, please contact this office at (202) 406-6370.

Thank you,

Freedom of Information Act & Privacy Act Program
United States Secret Service
245 Murray Lane, SW, Building T-5
Washington, DC 20223
Phone: (202) 406-6370
Fax: (202) 406-5586
Email: FOIA@USSS.DHS.GOV

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DEPARTMENT OF HOMELAND SECURITY
UNITED STATES SECRET SERVICE
WASHINGTON, D.C. 20223

Freedom of Information Act Program
Communications Center
245 Murray Lane, SW, Building T-5
Washington, D.C. 20223

Date: October 7, 2020

Melissa Chua
7 Hanover Square, 18th Floor
New York, New York 10004
Email: mchua@nylag.org

File Number: 20210010

Dear Requester:

This letter is intended to acknowledge the receipt of your recent Freedom of Information Act/Privacy Acts (FOIA/PA) request received by the United States Secret Service (Secret Service) on October 6, 2020, for information pertaining to Records of:

1. Authorization of ICE, HSI, any other DHS personnel to respond to, assist in responding to, and/or support other law enforcement efforts related to Protests in New York City, May 25, 2020, and the date of this request. Includes policies, operating procedures, rules, internal policy guidance, training materials, monitoring mechanisms, email messages, legal opinions or memoranda.
2. Any questioning, arrest, surveillance activities of ICE, HSI, other DHS personnel related to Protests in New York City, May 25, 2020, and the date of this request. Includes, presence of ICE HSI agents outside or around NYPD precincts, any limitations placed on ICE info gathered associated with such activities, any information or data sharing between NYPD and DHS/ICE.
3. Any/all records relating to the process ICE, HSI, or DHS use/have used to determine targets for Surveillance at Protests in New York City, May 25, 2020, and the date of this request; any Target Lists. Include/but not limited to: a. Manuals, policies, other guidance describing the use of CLEAR database in ICE operations; b. Any/all records, including slides or other materials from trainings, on how target lists are built or created, including the keywords "TRSS" or "Thomson Reuters," "CLEAR"; c. Target lists sent from ICE to Thomson Reuters/TRSS & Thomson Reuters/TRSS response to those lists, including information regarding all personal data⁴ searched & lists of all targets confirmed/rejected as "false positives"; d. All related communications between ICE & Thomson Reuters/TRSS including responses by ICE to the target lists.
4. Any Communications, agreements with Local Government in NY City, including but not limited

to the NYPD, relating to the deployment of ICE, HSI, DHS personnel, equipment, and/or resources to support law enforcement efforts in NY City. Provide a list of all divisions of New York City Local Government (including, but not limited to, any task forces within the NYPD) that have Agreements with ICE, HSI, or DHS.

5. Communications, agreements between ICE, HSI, or DHS, on the one hand, and Local Gov't in New York City, such as the NYPD, on the other hand, relating to the deployment of ICE, HSI, DHS personnel, equipment, and/or resources to support law enforcement efforts undertaken with Protests in New York City between May 25, 2020, and the date of this request.

6. Presentations, other documents distributed in connection with meetings and/or teleconferences between ICE, HSI, or DHS personnel, Local Gov't in New York City, the NYPD. Include, but are not limited to, meeting agenda & minutes, presentations, other materials distributed in electronic format or hardcopy to meeting participants; any other materials used by or shown to meeting participants.

7. Any Communications between ICE, HSI, or DHS personnel, private security companies or personnel relating to the deployment of ICE, HSI, or DHS personnel, equipment, and/or resources to support law enforcement efforts undertaken with Protests in NY City, May 25, 2020, and the date of this request.

8. Records relating to information that ICE, HSI, DHS personnel collected/sought to collect from protesters before, during, and after; and after Protests in NY City, May 25, 2020 and the date of this request, intended use of records.

9. Records relating to any arrests conducted by ICE, HSI, or other DHS personnel at Protests occurring in New York City between May 25, 2020, and the date of this request.

You have requested expedited processing of your request under the Department of Homeland Security (DHS) standard permitting expedition when a requester demonstrates a “compelling need.”

Your request, for expedited treatment, has been granted.

Under the DHS/FOIA regulation, 6 C.F.R., Chapter I, Part 5 § 5.5, 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” ((d)(1)(i)), or “an urgency to inform the public about an actual or alleged federal government activity, if made by a person primarily engaged in disseminating information” ((d)(1)(ii)). Requesters that seek expedited processing must submit a statement explaining, in detail, the basis for the request. Additionally, FOIA regulation 6 C.F.R., Chapter I, Part 5 § 5.5(d)(3), requires that statements be certified, by the requester, to be “true and correct to the best of that person’s knowledge and belief.”

Your request has been granted because you have demonstrated a need, under DHS/FOIA regulation 6 C.F.R., Chapter I, Part 5 § 5.5(d)(1)(i) or 5.5(d)(1)(ii), for expedited processing.

As it pertains to your request for a fee waiver, it will be held in abeyance pending the quantification of responsive records. The FOIA regulations, Title 6 C.F.R., Chapter I, Part 5 § 5.11(k)(2)(3), set forth six factors to examine when determining whether the applicable legal standard for a fee waiver has been met. We will consider these factors in our evaluation of your request for a fee waiver:

- 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 requestor or a narrow segment of interested persons;
- 4) Whether the contribution of 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 requestor is sufficiently large in comparison with the public interest in disclosure, that disclosure is primarily in the commercial interest of the requestor.

In the event that your fee waiver is denied, we shall charge you for the records in accordance with Interim FOIA regulations as they apply to non-commercial (“all other”) requesters. The first 100 pages of duplication are free of charge. As an “all other” requester, you will be charged .10 cents a page for the duplication of each additional page. As an “all other” requester, the first 2 hours of search time are free of charge, after which you will be charged the per quarter-hour rate (\$4.00, \$7.00, \$10.25) of the searcher.

Furthermore, the submission of your request is viewed as an agreement, by you, to pay duplication and search time costs up to \$25.00. A search for files responsive to your request is being conducted. The appropriate components of the Secret Service are being queried for responsive documents. If any responsive records are located, they will be reviewed for a disclosure determination. You will be contacted before any additional fees are accrued.

Due to the increasing number of FOIA/PA requests received by this office, we may encounter some delay in processing your request. Per Section 5.5(a) of the FOIA regulations, 6 C.F.R, Chapter I, Part 5, the Service processes FOIA/PA requests according to their order of receipt.

Your request has been assigned FOIA/PA File No. 20210010. We solicit your cooperation and assure you that the search will be conducted as expeditiously as possible. To check the status of your FOIA request, please contact this office at (202) 406-6370.

Please use the file number indicated above in all future correspondence with this office.

Thank you,

Freedom of Information Act Program
United States Secret Service
245 Murray Lane, SW, Building T-5
Washington, DC 20223
Phone: (202) 406-6370
Fax: (202) 406-5586
Email: FOIA@USSS.DHS.GOV

Exhibit E

From: FOIA@usss.dhs.gov
Sent: Thursday, October 15, 2020 11:04 AM
To: mchua@nylag.org
Subject: 20210010-Search Done
Attachments: Search Done Ltr. Responsive Docs. FOIA.pdf

Dear Requester,

Please see the attached letter updating you on the status of your FOIA request.

If you have any questions, in regard to this matter, please contact this office at the number provided below.

Thank you,

Freedom of Information Act & Privacy Act Program
United States Secret Service
245 Murray Lane, SW, Building T-5
Washington, DC 20223
Phone: (202) 406-6370
Fax: (202) 406-5586
Email: FOIA@USSS.DHS.GOV

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DEPARTMENT OF HOMELAND SECURITY
UNITED STATES SECRET SERVICE
WASHINGTON, D.C. 20223

Freedom of Information Act Program
Communications Center
245 Murray Lane, SW, Building T-5
Washington, D.C. 20223

Date: October 15, 2020

Melissa Chua
7 Hanover Square, 18th Floor
New York, NY 10004
Email: mchua@nylag.org

File Number: 20210010

Dear Requester:

Reference is made to your Freedom of Information Act (FOIA) request, originally submitted to the United States Secret Service (Secret Service) on October 6, 2020, for information pertaining to the following records between May 25, 2020 and October 6, 2020:

1. The authorization of DHS personnel to respond to, assist in responding to, and/or support other law enforcement efforts related to Protests occurring in New York City, to include policies, operating procedures, rules, internal policy guidance, training materials, monitoring mechanisms, email messages, legal opinions or memoranda;
2. Any questioning, arrest, or surveillance activities of DHS personnel related to Protests occurring in New York City, to include any information or data sharing between NYPD and DHS;
3. Any and all records relating to the process DHS uses or have used to determine targets for Surveillance at Protests occurring in New York City, including any Target Lists;
4. Any Communications or Agreements with Local Government in New York City, including but not limited to the NYPD, relating to the deployment of DHS personnel, equipment, and/or resources to support law enforcement efforts in New York City, to include a list of all divisions of New York City Local Government (including, but not limited to, any task forces within the NYPD) that have Agreements with DHS;
5. Communications or Agreements between DHS, on the one hand, and Local Government in New York City, such as the NYPD, on the other hand, relating to the deployment of DHS personnel, equipment, and/or resources to support law enforcement efforts undertaken in connection with Protests occurring in New York City;
6. Presentations or other documents distributed in connection with meetings and/or teleconferences between DHS personnel and Local Government in New York City, such as the NYPD, to include, but are not limited to, meeting agenda, meeting minutes, presentations or other materials distributed either in electronic format or hardcopy to

meeting participants, and any other materials used by or shown to meeting participants.;

7. Any Communications between DHS personnel and private security companies or personnel relating to the deployment of DHS personnel, equipment, and/or resources to support law enforcement efforts undertaken in connection with Protests occurring in New York City;
8. Records relating to information that DHS personnel collected or sought to collect from protesters before, during, and after Protests occurring in New York City, including the intended use of such Records; and
9. Records relating to any arrests conducted by DHS personnel at Protests occurring in New York City.

In response to your FOIA request, the Secret Service FOIA Office has conducted a reasonable search for all potentially responsive documents. The Secret Service FOIA Office searched all Program Offices that were likely to contain potentially responsive records, and records were located.

We are processing the responsive records identified in connection with that search. They will be processed in accordance with the Freedom of Information Act, 5 U.S.C. § 552 and mailed to you upon completion.

As referenced in our initial response, due to the increasing number of FOIA requests received by this office, we may encounter some delay in processing your request. However, we are processing your request as expeditiously as possible.

Your request has been assigned FOIA File No. 20210010. If you have any questions, would like to discuss this matter, or check the status of your request, please contact this office at (202) 406-6370. Please refer to the file number indicated above in all correspondence with this office.

Thank you,

Freedom of Information Act Program
United States Secret Service
245 Murray Lane, SW, Building T-5
Washington, DC 20223
Phone: (202) 406-6370
Fax: (202) 406-5586
Email: FOIA@USSS.DHS.GOV

Exhibit F

From: ice-foia@dhs.gov
Sent: Tuesday, October 20, 2020 12:37 PM
To: mchua@nylag.org
Subject: ICE FOIA Request 2021-ICFO-04458

October 20, 2020

Melissa Chua
NYLAG
7 Hanover Square
18th Floor
New York, NY 10004

RE: ICE FOIA Case Number 2021-ICFO-04458

Dear Ms. Chua:

This acknowledges receipt of your September 29, 2020, Freedom of Information Act (FOIA) request to U.S. Immigration and Customs Enforcement (ICE), for records relating to the authorization of ICE, HSI, or any other DHS personnel to respond to, assist in responding to, and/or support other law enforcement efforts related to Protests occurring in New York City between May 25, 2020 and the date of this request (see request for additional details). Your request was received in this office on September 29, 2020.

Due to the increasing number of FOIA requests received by this office, we may encounter some delay in processing your request. Per Section 5.5(a) of the DHS FOIA regulations, 6 C.F.R. Part 5, ICE processes FOIA requests according to their order of receipt. Although ICE's goal is to respond within 20 business days of receipt of your request, the FOIA does permit a 10- day extension of this time period. As your request seeks numerous documents that will necessitate a thorough and wide-ranging search, ICE will invoke a 10-day extension for your request, as allowed by Title 5 U.S.C. § 552(a)(6)(B). If you care 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.

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 Interim FOIA regulations as they apply to non-commercial requesters. As a non-commercial requester, you will be charged 10 cents per page for duplication; the first 100 pages are free, as are the first two hours of search time, after which you will pay the per quarter-hour rate (\$4.00 for clerical personnel, \$7.00 for professional personnel, \$10.25 for managerial personnel) of the searcher. We will construe the submission of your request as an agreement to pay up to \$25.00. You will be contacted before any further fees are accrued.

We have queried the appropriate program offices within ICE for responsive records. If any responsive records are located, they will be reviewed for determination of releasability. Please be assured that one of the processors 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-ICFO-04458**. Please refer to this identifier in any future correspondence. To check the status of an ICE FOIA/PA request, please visit <http://www.dhs.gov/foia-status>. Please note that to check the status of a request, you must enter the 2021-ICFO-04458 tracking number. If you need any further assistance or would like to discuss any aspect of your request, please contact the FOIA office. You may send an e-mail to ice-foia@ice.dhs.gov, call toll free (866) 633-1182, or you may contact our FOIA Public Liaison, Fernando Pineiro, in the same manner. Additionally, you have a right to right to seek dispute resolution services from the Office of Government Information Services (OGIS) which mediates disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. If you are requesting access to your own records (which is considered a Privacy Act request), you should know that OGIS does not have the authority to handle requests made under the Privacy Act of 1974. You may contact OGIS as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Regards,

ICE FOIA Office
Immigration and Customs Enforcement
Freedom of Information Act Office
500 12th Street, S.W., Stop 5009
Washington, D.C. 20536-5009
Telephone: 1-866-633-1182
Visit our FOIA website at www.ice.gov/foia

Exhibit G

From: I&AFOIA <IAFOIA@HQ.DHS.GOV>
Sent: Wednesday, December 16, 2020 4:22 PM
To: mchua@nylag.org
Cc: I&AFOIA
Subject: Final response to DHS I&A FOIA 2021-IAFO-00006
Attachments: 2021-IAFO-00006_final_ltr.docx

Good afternoon Requester Chua,

Please find attached final response to DHS I&A FOIA 2021-IAFO-00006.

V/r,

I&AFOIA
FOIA Officer
Department of Homeland Security Officer of Intelligence and Analysis
I&AFOIA@HQ.DHS.GOV



Homeland
Security

December 16, 2020

SENT BY ELECTRONIC MAIL TO: mchua@nylag.org

Melissa Chua
New York Legal Assistance Group
7 Hanover Square, 18th Floor
New York, New York 10004

Re: Freedom of Information Act Request 2021-IAFO-00006

Dear Requester Chua,

This is the final response to your Freedom of Information Act (FOIA) request to the Department of Homeland Security (DHS), Headquarters Privacy (HQ PRIV) and received in the Office of Intelligence and Analysis (I&A), on October 4, 2020. You are seeking records about:

I&A's support of other law enforcement efforts related to Protests occurring in New York City between May 25, 2020, and the date of this request.

While an adequate search was conducted by the Office of I&A, no records responsive to your request were found. You have the right to appeal this determination that no records exist within I&A that would be responsive to your request.¹ Should you wish to do so, you must send your appeal and a copy of this letter, within 90 days of the date of this letter, to: Privacy Office, Attn: FOIA Appeals, U.S. Department of Homeland Security, 245 Murray Lane, SW, Mail Stop 0655, Washington, D.C. 20528-0655, following the procedures outlined in the DHS FOIA regulations at 6 C.F.R. Part 5 § 5.8. Your envelope and letter should be marked "FOIA Appeal." Copies of the FOIA and DHS FOIA regulations are available at www.dhs.gov/foia.

Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA dispute resolution services it offers. The contact information for OGIS is:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road-OGIS
College Park, Maryland 20740-6001

¹ For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. *See* U.S.C. 552© (2006 & Supp. IV 2010). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

Email: ogis@nara.gov

Telephone: 202-741-5770

Toll free: 1-877-684-6448

Fax: 202-741-5769

Please note that contacting any agency official (including the FOIA analyst, FOIA Requester Service Center, FOIA Public Liaison) and/or OGIS **is not** an alternative to filing an administrative appeal and **does not** stop the 90-day appeal clock.

Sincerely,

Priscilla Waters

Priscilla Waters
Assistant FOIA Officer

Exhibit H

From: Melissa Chua <mchua@nylag.org>
Sent: Tuesday, February 2, 2021 9:57 AM
To: I&AFOIA
Subject: Re: Final response to DHS I&A FOIA 2021-IAFO-00006
Attachments: NYLAG Response 2.2.21.pdf

Dear Officer Waters,

Please find attached our letter regarding the response referenced below.

Thank you,

Melissa Chua

Associate Director, Immigrant Protection Unit

Pronouns: She, her, hers

7 Hanover Square | New York, NY 10004

t: 212.613.6547



From: I&AFOIA <IAFOIA@HQ.DHS.GOV>
Date: Wednesday, December 16, 2020 at 4:26 PM
To: Melissa Chua <mchua@nylag.org>
Cc: I&AFOIA <IAFOIA@HQ.DHS.GOV>
Subject: Final response to DHS I&A FOIA 2021-IAFO-00006

Good afternoon Requester Chua,

Please find attached final response to DHS I&A FOIA 2021-IAFO-00006.

V/r,

I&AFOIA
FOIA Officer
Department of Homeland Security Officer of Intelligence and Analysis
I&AFOIA@HQ.DHS.GOV



Priscilla Waters
Office of Intelligence & Analysis
U.S. Department of Homeland Security
Privacy Office, Mail Stop 0655
2707 Martin Luther King Jr. AVE SE
Washington, DC 20528-065

VIA ELECTRONIC MAIL

February 2, 2021

Re: Freedom of Information Act Request 2021-IAFO-00006

Dear Ms. Waters:

We confirm receipt of your letter dated December 16, 2020 regarding the Department of Homeland Security Office of Intelligence and Analysis's ("I&A") final response to NYLAG's FOIA request referenced above. I write to seek certain clarifications with respect to your letter.

First, please note that NYLAG originally submitted this FOIA request to both DHS and ICE. In a letter dated October 5, 2020, the DHS Privacy Office informed us that it has transferred NYLAG's FOIA request to the CBP, USSS, and FPS. *See* Attachment 1. Does the December 16, 2020 letter represent a final response on behalf of all DHS agencies, including ICE, CBP, USSS, and FPS? If not, on which agency's or agencies' behalf was the December 16, 2020 letter sent?

Second, your December 16, 2020 letter summarizes NYLAG's FOIA request as seeking records about "I&A's support of other law enforcement efforts related to Protests occurring in New York City between May 25, 2020, and the date of this request." We dispute this over-simplified characterization of NYLAG's FOIA request, which contains nine individual request items. *See* Attachment 2. Please clarify the specific request item(s) to which your letter applies.

In its letter of October 5, 2020, the DHS Privacy Office informed us that it may have purview over the records requested under items 1, 4, 5, 6, and 8 of NYLAG's FOIA request and will conduct a search for the records described in those items. Does your December 16, 2020 letter constitute a representation that the DHS Privacy Office has searched for records requested under items 1, 4, 5, 6, and 8 of NYLAG's FOIA request? Does your December 16, 2020 letter constitute a further representation that the DHS Privacy Office found no responsive documents for items 1, 4, 5, 6, and 8 of NYLAG's FOIA request? If not, for which request item(s) did you conduct your search?

Third, we respectfully request that you provide the following information regarding the scope and methods of your search.

- Did you search paper documents, or electronic documents, or both?
- If you searched paper documents, which office(s) was the search performed at?
- If you searched electronic documents, what database(s) did you search?
- With respect to both paper and electronic documents, what was the time period that you searched?
- With respect to electronic documents, what search terms did you use?

We look forward to receiving a prompt response. If we do not hear from you within 15 days, we plan to begin the appellate process under the procedures in 6 C.F.R. Part 5 § 5.8.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'mchua'.

Melissa Chua
New York Legal Assistance Group
7 Hanover Square, 7th Floor
New York, New York 10004
mchua@nylag.org
(212) 613-5088

Enclosure

Exhibit I

From: "foia@hq.dhs.gov" <foia@hq.dhs.gov>
Date: Thursday, February 11, 2021 at 2:31 PM
To: Melissa Chua <mchua@nylag.org>
Subject: Department of Homeland Security FOIA 2021-HQFO-00013 Update

Good afternoon,

Attached is an update pertaining to your request. If you need to contact this office again concerning your request, please provide the DHS reference number. This will enable us to quickly retrieve the information you are seeking and reduce our response time. This office can be reached at 866-431-0486.

Regards,

DHS Privacy Office

Disclosure & FOIA Program

STOP 0655

Department of Homeland Security

245 Murray Drive, SW

Washington, DC 20528-0655

Telephone: 1-866-431-0486 or 202-343-1743

Fax: 202-343-4011

Visit our [FOIA website](#)



**Homeland
Security**

Privacy Office, Mail Stop 0655

February 11, 2021

Melissa Chua
NYLAG
7 Hanover Square
18th Floor
New York, NY 10004

Re: **2021-HQFO-00013**

Dear Ms. Chua:

This is in further response to your Freedom of Information Act (FOIA) request to the Department of Homeland Security (DHS), Privacy Office, dated September 29, 2020, and received in this office on September 29, 2020. You requested:

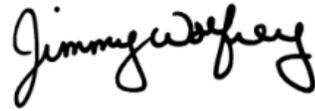
1. Records relating to the authorization of ICE, HSI, or any other DHS personnel to respond to, assist in responding to, and/or support other law enforcement efforts related to Protests occurring in New York City between May 25, 2020, and the date of this request. This includes policies, operating procedures, rules, internal policy guidance, training materials, monitoring mechanisms, email messages, legal opinions or memoranda.
2. Records relating to any questioning, arrest, or surveillance activities of ICE, HSI, or any other DHS personnel related to Protests occurring in New York City between May 25, 2020, and the date of this request. This includes the presence of ICE HSI agents outside or around New York Police precincts, any limitations placed on ICE info gathered associated with such activities, any information or data sharing between NYPD and DHS/ICE.
3. Any and all records relating to the process ICE, HSI, or DHS use or have used to determine targets for Surveillance at Protests occurring in New York City between May 25, 2020, and the date of this request, including any Target Lists. Such records include, but are not limited to, the following:
 - a. Manuals, policies, or other guidance describing the use of CLEAR database in ICE operations;
 - b. Any and all records, including slides or other materials from trainings, on how target lists are built or created, including the keywords "TRSS" or "Thomson Reuters" or "CLEAR";
 - c. Target lists sent from ICE to Thomson Reuters/TRSS and Thomson Reuters/TRSS response to those lists, including information regarding all personal data⁴ searched and lists of all targets confirmed or rejected as "false positives";

- d. All related communications between ICE and Thomson Reuters/TRSS including responses by ICE to the target lists.
4. Any Communications or Agreements with Local Government in New York City, including but not limited to the NYPD, relating to the deployment of ICE, HSI, or DHS personnel, equipment, and/or resources to support law enforcement efforts in New York City. Please also provide a list of all divisions of New York City Local Government (including, but not limited to, any task forces within the NYPD) that have Agreements with ICE, HSI, or DHS.
5. Communications or Agreements between ICE, HSI, or DHS, on the one hand, and Local Government in New York City, such as the NYPD, on the other hand, relating to the deployment of ICE, HSI, or DHS personnel, equipment, and/or resources to support law enforcement efforts undertaken in connection with Protests occurring in New York City between May 25, 2020, and the date of this request.
6. Presentations or other documents distributed in connection with meetings and/or teleconferences between ICE, HSI, or DHS personnel and Local Government in New York City, such as the NYPD. Such Records include, but are not limited to, meeting agenda, meeting minutes, presentations or other materials distributed either in electronic format or hardcopy to meeting participants, and any other materials used by or shown to meeting participants.
7. Any Communications between ICE, HSI, or DHS personnel and private security companies or personnel relating to the deployment of ICE, HSI, or DHS personnel, equipment, and/or resources to support law enforcement efforts undertaken in connection with Protests occurring in New York City between May 25, 2020, and the date of this request.
8. Records relating to information that ICE, HSI, or DHS personnel collected or sought to collect from protesters before, during, and after Protests occurring in New York City between May 25, 2020 and the date of this request, including the intended use of such Records.
9. Records relating to any arrests conducted by ICE, HSI, or other DHS personnel at Protests occurring in New York City between May 25, 2020, and the date of this request.

Upon further review, we have determined that most requests related to this topic, including yours, should be handled at the Component-level rather than processed at Headquarters. Accordingly, you should expect to receive a final response directly from the Office of Intelligence and Analysis (I&A), in addition to the Privacy Office. Please note that I&A is already in the process of searching for potentially responsive records to your request. Furthermore, the Privacy Office has located some potentially responsive records which fall under its purview, which are queued processing. We do not expect this administrative change to delay your response.

If you need to contact our office again about this matter, please refer to **2021-HQFO-00013**.
You may contact this office at 1-866-431-0486 or 202-343-1743.

Sincerely,

A handwritten signature in black ink that reads "Jimmy Wolfrey". The signature is written in a cursive, flowing style.

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

Exhibit J



Privacy Office
Attn: FOIA Appeals
U.S. Department of Homeland Security
245 Murray Lane, SW, Mail Stop 0655
Washington, D.C. 20528-0655

April 12, 2021

RE: FOIA Appeal, Request 2021-IAFO-00006; 2021-HQFO-00013; CBP-2021-000784; 2021-ICFO-04458

To Whom It May Concern:

Pursuant to 5 U.S.C. § 552(a)(6) and 6 C.F.R. § 5.8(a)(1), the New York Legal Assistance Group (“NYLAG”) appeals (1) the December 16, 2020 response of the Office of Intelligence and Analysis (“I&A”) of the U.S. Department of Homeland Security (“DHS”) to FOIA Request No. 2021-IAFO-00006 (the “Request”), and (2) the failure of other DHS agencies to timely respond and/or produce records responsive to the same Request. Copies of the Request and subsequent correspondence with DHS FOIA officers are attached to this letter. As required by 6 C.F.R. § 5.8(a)(1), this appeal is postmarked within 90 working days of I&A’s response and is therefore timely.

I. Background

On September 29, 2020, NYLAG submitted the Request via email to the FOIA officers at DHS and U.S. Immigration & Customs Enforcement (“ICE”). *See* Ex. A. Broadly speaking, the Request sought records relating to the involvement of ICE, Homeland Security Investigations (“HSI”), or any other DHS personnel in protests that occurred in New York City between May 25, 2020 and the date of the Request. *See* Ex. A. The Request set forth nine specific categories of document requests. *See* Ex. A. The Request also sought expedited treatment and a fee waiver. *See* Ex. A.

On October 5, 2020, NYLAG received by email a letter from DHS, which acknowledged receipt of the Request, assigned tracking number 2021-HQFO-00013, conditionally granted the Request for a fee waiver, and invoked the statutory ten-day extension for unusual circumstances in 6 C.F.R. § 5.5(c). *See* Ex. B. In addition, the letter stated that DHS had referred the Request to the FOIA officers for U.S. Customs and Border Protection (CBP), U.S. Secret Service (USSS), and the Federal Protective Services (FPS). *See* Ex. B. As of the date of this appeal, NYLAG has not received any correspondence from FPS.

Also on October 5, 2020, NYLAG received by email a letter from CBP, which acknowledged receipt of the Request, assigned tracking number CBP-2021-000784, and invoked the statutory ten-day extension. *See* Ex. C. NYLAG has not received any further correspondence from CBP.

On October 7, 2020, NYLAG received by email a letter from USSS, which acknowledged receipt of the Request, assigned tracking number 20210010, granted the Request for expedited treatment, and held the Request for fee waiver in abeyance pending the quantification of responsive records. *See* Ex. D.

On October 15, 2020, NYLAG received by email another letter from USSS, which stated that USSS has “conducted a reasonable search for all potentially responsive documents” and that “records were located.” *See* Ex. E. The letter further stated that USSS would process the records and mail them to NYLAG upon completion. *See* Ex. E. As of the date of this appeal, NYLAG has not received any records from USSS, nor has NYLAG received any further correspondence from USSS.

On October 20, 2020, NYLAG received an email from ICE, which acknowledged receipt of the Request and invoked the statutory ten-day extension for unusual circumstances in 6 C.F.R. § 5.5(c). *See* Ex. F. NYLAG has not received any further correspondence from ICE.

On December 16, 2020, NYLAG received by email a letter from I&A that purported to be a “final response” to the Request. *See* Ex. G. The letter stated that I&A has made an “adequate search” in response to the Request, and that “no records responsive to [the Request] were found.” *See* Ex. G. The I&A letter also stated that it was the “final response” to the Request and that NYLAG may appeal I&A’s determination. *See* Ex. G.

On February 2, 2021, NYLAG sent a response via email to I&A’s final response of December 16, 2020. *See* Ex. H. In its letter, NYLAG asked I&A to clarify whether its December 16, 2020 “final response” was sent on behalf of all DHS agencies, including ICE, CBP, USSS, and FPS. *See* Ex. H. NYLAG also objected to I&A’s oversimplified summary of the Request and sought clarification regarding the scope and methods of I&A’s search. *See* Ex. H. Finally, the response stated that if I&A did not respond within 15 days, NYLAG would begin the appellate procedure outlined in 6 C.F.R. § 5.8. As of the date of this appeal, I&A has not responded to NYLAG’s request for clarification.

On February 11, 2021, NYLAG received by email another letter from the DHS Privacy Office, which stated that NYLAG should expect to receive a “final response” directly from I&A and the Privacy Office. *See* Ex. I. It was unclear whether the “final response” refers to the December 16, 2020 letter from I&A. The February 11 letter further stated that I&A was in the process of searching for potentially responsive records (despite the fact that two months prior, I&A had sent NYLAG a “final response” stating that no responsive records were found). *See* Ex. I. In addition, the

February 11 letter stated that the Privacy Office had “located some potentially responsive records.” *See* Ex. I. As of the date of this appeal, NYLAG has not received any documents from the Privacy Office.

II. Reasons for Appeal

“It is elementary that an agency responding to a FOIA request must conduct a search reasonably calculated to uncover all relevant documents, and, if challenged, must demonstrate beyond material doubt that the search was reasonable.” *Truitt v. U.S. Dep’t of State*, 897 F.2d 540, 542 (D.C. Cir. 1990) (internal quotation marks omitted). “The agency must show that it made a good faith effort to conduct a search for the requested records, using methods which can be reasonably expected to produce the information requested.” *Valencia-Lucena v. Coast Guard*, 180 F.3d 321, 325 (D.C. Cir. 1999). “An inadequate search for records constitutes an improper withholding under the FOIA.” *Dean v. U.S. Dep’t of Justice*, 141 F. Supp. 3d 46, 48 (D.D.C. 2015). The agency bears the burden of proving that a search was adequate. *See Carney v. U.S. Dep’t of Justice*, 19 F.3d 807, 813 (2d Cir. 1994).

As the only agency to respond to the Request, I&A has failed to demonstrate that it conducted an adequate search in response to the Request. The December 16, 2020 final response letter from I&A does not describe how I&A searched for responsive records, what search methods were used, or what locations were searched, thus providing no information for NYLAG to assess whether I&A’s search was adequate. *See, e.g., Albaladejo v. Immigration & Customs Enft*, 2021 WL 354173, at *5 (D.D.C. Feb. 2, 2021) (holding that agency’s search is inadequate when agency’s declaration regarding search efforts is “sparse on details”). Moreover, I&A never responded to NYLAG’s February 2, 2021 request for clarification.

To the extent I&A has in fact located responsive records which it has failed to produce, NYLAG likewise appeals I&A’s failure to “promptly” produce responsive records pursuant to 5 U.S.C. § 552(a)(3)(A). Depending on the search criteria that I&A used to identify those records, NYLAG reserves the right to challenge the adequacy of such criteria.

NYLAG also appeals the failures of ICE, USSS, CBP, and FPS to timely respond and/or produce records responsive to the Request. It has now been six months since ICE, USSS, and CBP acknowledged the Request. In this time, none of these agencies provided a meaningful response nor produced any records. Moreover, FPS failed to even acknowledge the Request, even though DHS had transferred it to FPS. While some of the agencies invoked “unusual circumstances” to justify a delay in responding to the Request, such a justification would have earned them only an additional ten business days. *See id.* at § 552(a)(6)(B)(i). Accordingly, these agencies’ responses to the Request are woefully overdue and NYLAG is “deemed to have exhausted [its] administrative remedies.” *See id.* at § 552(a)(6)(C)(i).

Accordingly, NYLAG respectfully requests that I&A immediately: (1) conduct an adequate search and disclose all records responsive to the Request in an expeditious manner, and (2) provide a response to NYLAG's February 2, 2021 clarification letter. In addition, NYLAG respectfully requests that all other DHS agencies that are responding to the Request, including ICE, CBP, USSS, and FPS, promptly produce records responsive to the Request following an adequate search process. In the event that the FOIA Appeals Officer reaches an adverse determination regarding this appeal, NYLAG requests a comprehensive description of all searches conducted, a complete list of documents that have been identified as being covered by the Request, and specific justifications for any such records that have been withheld.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'M Chua', with a long horizontal flourish extending to the right.

Melissa Chua
New York Legal Assistance Group
7 Hanover Square, 7th Floor
New York, New York 10004
mchua@nylag.org
(212) 613-5088

Exhibit K

From: "foia-obim@hq.dhs.gov" <foia-obim@hq.dhs.gov>

Date: Friday, September 3, 2021 at 2:20 PM

To: Melissa Chua <mchua@nylag.org>

Subject: Department of Homeland Security FOIA 2021-HQAP-00226 Acknowledgment

Good afternoon,

Attached is our acknowledgment of your DHS FOIA request. If you need to contact this office again concerning your request, please provide the DHS reference number. This will enable us to quickly retrieve the information you are seeking and reduce our response time. This office can be reached at 866-431-0486.

Regards,

DHS Privacy Office

Disclosure & FOIA Program

STOP 0655

Department of Homeland Security

245 Murray Drive, SW

Washington, DC 20528-0655

Telephone: 1-866-431-0486 or 202-343-1743

Fax: 202-343-4011

Visit our [FOIA website](#)



Homeland
Security

September 3, 2021

Melissa Chua
NYLAG
7 Hanover Square, 18th Floor
New York, NY 10004

Re: **DHS Appeal Number 2021-HQAP-00226**
FOIA Request Number 2021-IAFO-00006

Dear Ms. Chua:

The Department of Homeland Security (DHS) has received your appeal of the response by the Office of Intelligence and Analysis to your Freedom of Information Act (FOIA) request concerning the adequacy of the search performed. On behalf of the Deputy Associate General Counsel for General Law, we acknowledge your appeal and are assigning it number **2021-HQAP-00226** for tracking purposes. Please reference this number in any future communications about your appeal.

A high number of FOIA requests have been received by the Department. Accordingly, we have adopted the court-sanctioned practice of generally handling backlogged appeals on a first-in, first-out basis.¹ While we will make every effort to process your appeal on a timely basis, there may be some delay in resolving this matter.

The status of your appeal is now available online and can be accessed at: <https://foiarequest.dhs.gov/app/CheckStatus.aspx>, by using the appeal 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 anytime, anywhere.

Should you have any questions concerning the processing of your appeal, please contact me at Eric.Neuschaef@hq.dhs.gov.

Sincerely,

A handwritten signature in cursive script that reads "Eric A. Neuschaef".

Eric A. Neuschaef
Senior Director, FOIA Litigation, Appeals, Policy, and
Training (Acting)

¹ Appeals of expedited treatment denials will be handled on an expedited basis.

Exhibit L

From: "foia-obim@hq.dhs.gov" <foia-obim@hq.dhs.gov>

Date: Friday, September 3, 2021 at 3:55 PM

To: Melissa Chua <mchua@nylag.org>

Subject: Department of Homeland Security FOIA 2021-HQAP-00227 Acknowledgment

Good afternoon,

Attached is our acknowledgment of your DHS FOIA request. If you need to contact this office again concerning your request, please provide the DHS reference number. This will enable us to quickly retrieve the information you are seeking and reduce our response time. This office can be reached at 866-431-0486.

Regards,

DHS Privacy Office
Disclosure & FOIA Program
STOP 0655
Department of Homeland Security
245 Murray Drive, SW
Washington, DC 20528-0655
Telephone: 1-866-431-0486 or 202-343-1743
Fax: 202-343-4011
Visit our [FOIA website](#)



Homeland
Security

September 3, 2021

Melissa Chua
NYLAG
7 Hanover Square, 18th Floor
New York, NY 10004

Re: **DHS Appeal Number 2021-HQAP-00227**
FOIA Request Number 2021-HQFO-00013

Dear Ms. Chua:

The Department of Homeland Security (DHS) has received your appeal of the response by the Office of the Chief Privacy Officer, PRIV to your Freedom of Information Act (FOIA) request concerning The adequacy of the search provided by I&A and the failures of ICE, CBP, USSS and FPS to timely respond and/or produce records responsive to the request. On behalf of the Deputy Associate General Counsel for General Law, we acknowledge your appeal and are assigning it number **2021-HQAP-00227** for tracking purposes. Please reference this number in any future communications about your appeal.

A high number of FOIA requests have been received by the Department. Accordingly, we have adopted the court-sanctioned practice of generally handling backlogged appeals on a first-in, first-out basis.¹ While we will make every effort to process your appeal on a timely basis, there may be some delay in resolving this matter.

The status of your appeal is now available online and can be accessed at: <https://foiarequest.dhs.gov/app/CheckStatus.aspx>, by using the appeal 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.

¹ Appeals of expedited treatment denials will be handled on an expedited basis.

Should you have any questions concerning the processing of your appeal, please contact me at Eric.Neuschaef@hq.dhs.gov.

Sincerely,

A handwritten signature in black ink that reads "Eric A. Neuschaef". The signature is written in a cursive style with a large initial "E".

Eric A. Neuschaef
Senior Director, FOIA Litigation, Appeals, Policy, and
Training (Acting)

Exhibit M

From: "Meus, Lauren M CIV USCG (USA)" <Lauren.M.Meus@uscg.mil>
Date: February 4, 2022 at 8:25:52 AM EST
To: Melissa Chua <mchua@nylag.org>
Subject: 2021-HQAP-00226 (FOIA)

Ms. Chua:

Please find attached the FOIA Appeal Decision issued by John C. Johns for the above matter.

Thank you,

Lauren M. Meus
Hearing Docket Clerk
U.S. Coast Guard

U.S. Department of
Homeland Security

United States
Coast Guard



Office of the Chief Administrative Law Judge
United States Coast Guard

40 S. Gay Street Room 412
Baltimore, MD 21202
Staff Symbol: CG-00J
Phone: 410-962-0927
Fax: 410-962-7142
Email: John.C.Johns@uscg.mil

5720
4 February 2022

Melissa Chua
NYLAG
7 Hanover Square, 18th Square
New York, NY 10004

RE: DHS FOIA APPEAL NUMBER 2021-HQAP-00226; FOIA Request Number 2021-IAFO-00006

Dear Ms. Chua:

This letter concerns your appeal of the Department of Homeland Security's (DHS) Office of Intelligence and Analysis (I&A) adverse response to your FOIA request 2021-IAFO-00006. In your initial request, you sought records relating to the involvement of DHS personnel in the protests that occurred in New York City between May 25, 2020 and September 29, 2020. DHS indicated they sent your response out to multiple DHS components, and on December 16, 2020, I&A responded to your request, advising you it did not locate any responsive records. For the reasons set forth below, I am **REMANDING** this matter to I&A for further explanation.

Pursuant to a memorandum of agreement, the United States Coast Guard Office of the Chief Administrative Law Judge is reviewing FOIA appeals for the Department of Homeland Security General Counsel's office. Therefore, the Office of the Chief Administrative Law Judge hereby renders the official appeal decision on behalf of the Department of Homeland Security.

Insufficiency of Search

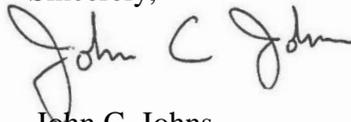
An agency is required to conduct a "reasonable search" pursuant to 5 U.S.C. § 552(a)(3) and each different agency makes the determination of where and how to search for responsive records. *Lechliter v. Rumsfeld*, 182 F. App'x 113, 115 (3d Cir. 2006) (holding that the agency fulfilled their duty to conduct a reasonable search when it searched two offices that it determined to be the only ones likely to possess responsive documents); *Brehm v. DOD*, 593 F. Supp. 2d 49, 50 (D.D.C. 2009) (finding that a search was reasonable where the agency searched two systems likely to have responsive records); *Knight v. NASA*, No. 04-2054, 2006 WL 3780901 (E.D. Cal. Dec. 21, 2006) (finding that there is no requirement that an agency search all possible sources in response to a FOIA request when it believes all responsive documents are likely to be located in one place). Furthermore, the agency is in the best position to determine how to best search for records in its systems.

Pursuant to relevant authority, the undersigned reviewed the materials supporting I&A search in response to your request. Unfortunately, I am unable to determine whether an adequate search was performed and/or whether any documents exist that would be responsive to your request. Accordingly, I am **REMANDING** this matter to I&A to provide an explanation within 30 days of this letter.

Notwithstanding the above decision, as part of the 2007 FOIA amendments, the Office of Government Information Services (OGIS) was created to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. If you are requesting access to your own records (which is considered a Privacy Act request), you should know that OGIS does not have the authority to handle requests made under the Privacy Act of 1974. If you wish to contact OGIS, you may email them at ogis@nara.gov or call 1-877-684-6448.

Once I receive a response from I&A, I will issue another letter disposing of your appeal. If after 30 days I do not receive an explanation, I or another attorney, will provide you with a letter supplying final agency action so that you may appeal this matter to district court, if you so choose.

Sincerely,

A handwritten signature in black ink that reads "John C. Johns". The signature is written in a cursive style with a large initial "J" and a distinct "C" and "J".

John C. Johns
Attorney Advisor
United States Coast Guard

Copy: James Holzer, Deputy Chief FOIA Officer

Sent *via* first class mail to the above address

Exhibit N

From: "Cantrell, Tommy B CIV USCG (USA)" <Tommy.B.Cantrell@uscg.mil>
Date: Thursday, March 10, 2022 at 12:17 PM
To: Melissa Chua <mchua@nylag.org>
Subject: FOIA Appeal 2021-HQFO-00013

Ms. Chua,

I am the FOIA Appeals Officer assigned to decide your FOIA appeal. Can you please give me a call at your earliest convenience.

Kind regards,

Tommy B. Cantrell, J.D., LL.M.
Attorney Advisor to
Administrative Law Judge
United States Coast Guard
Department of Homeland Security
U.S. Courthouse
601 25th Street, Suite 508A
Galveston, TX 77550
480-249-6471

Exhibit O

From: "Meus, Lauren M CIV USCG (USA)" <Lauren.M.Meus@uscg.mil>

Date: April 4, 2022 at 10:24:09 AM EDT

To: Melissa Chua <mchua@nylag.org>

Subject: 2021-HQAP-00226 (FINAL)

Ms. Chua:

Please find attached the Final FOIA Appeal Decision issued by John C. Johns for the above matter.

Thank you,

Lauren M. Meus
Hearing Docket Clerk
U.S. Coast Guard

U.S. Department of
Homeland Security

United States
Coast Guard



Office of the Chief Administrative Law Judge
United States Coast Guard

40 S. Gay Street Room 412
Baltimore, MD 21202
Staff Symbol: CG-00J
Phone: 410-962-0927
Fax: 410-962-7142
Email: John.C.Johns@uscg.mil

5720
4 Apr 2022

Melissa Chua
NYLAG
7 Hanover Square, 18th Square
New York, NY 10004

RE: DHS FOIA APPEAL NUMBER 2021-HQAP-00226; FOIA Request Number 2021-IAFO-00006

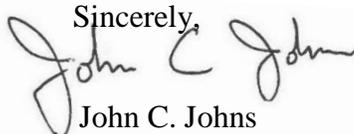
Dear Ms. Chua:

On or about February 4, 2022, I **REMANDED** this matter and directed the Office of Intelligence and Analysis (I&A) to provide a supplemental response concerning your FOIA Request Number 2021-IAFO-00006. That letter gave I&A 15 days to comply.

To date, I have not received a response from I&A. Therefore, this letter constitutes final agency action and you are now able to appeal this matter to Federal District Court.

As part of the 2007 FOIA amendments, the Office of Government Information Services (OGIS) was created to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. If you are requesting access to your own records (which is considered a Privacy Act request), you should know that OGIS does not have the authority to handle requests made under the Privacy Act of 1974. If you wish to contact OGIS, you can email (ogis@nara.gov) or call 1-877-684-6448.

This decision is the final action of DHS concerning DHS FOIA Appeal Number 2021-HQAP-00226; FOIA Request Number 2021-IAFO-00006. You may seek judicial review of this decision, per 5 U.S.C. §552(a)(4)(B) in either the United States District Court: 1) where you reside; 2) the district where the pertinent agency is situated; or 3) in the District of Columbia.

Sincerely,

John C. Johns
Attorney Advisor
United States Coast Guard

Copy: FOIA Appeals Officer

Exhibit P

From: Meus, Lauren M CIV USCG (USA) <Lauren.M.Meus@uscg.mil>

Date: Wednesday, April 27, 2022 at 10:22 AM

To: Melissa Chua <mchua@nylag.org>

Subject: 2021-HQAP-00227 (FOIA)

Ms. Chua:

Please find attached the FOIA Appeal Decision issued by the Houston/Galveston office for the above matter.

Thank you,

Lauren M. Meus
Hearing Docket Clerk
U.S. Coast Guard

U.S. Department of
Homeland Security

United States
Coast Guard



Office of the Administrative Law Judge
United States Coast Guard

U.S. Courthouse
601 25th Street, Suite 508A
Galveston, Texas 77550
Staff Symbol: ALJ-Hou
Phone: 409-765-1300
Email: Tommy.B.Cantrell@uscg.mil

5720
27 April 2022

Melissa Chua
NYLAG
7 Hanover Square
18th Floor
New York, NY 10004

RE: DHS FOIA Appeal Number 2021-HQAP-00227

Dear Ms. Chua:

This letter concerns your appeal of the Department of Homeland Security's (DHS) Privacy Office's (PRIV) adverse response to your FOIA request 2021-HQFO-00013. In your initial request, you sought materials which you describe in 9 paragraphs, excluding subparts. On or about February 11, 2021, PRIV advised you the Office of Intelligence and Analysis (I&A) was in the process of searching for responsive records. PRIV also advised that it located some potentially responsive records which fall under its purview, and that the documents were queued for processing.

Pursuant to a memorandum of agreement, the United States Coast Guard Office of the Chief Administrative Law Judge is reviewing FOIA appeals for the Department of Homeland Security General Counsel's office. Therefore, the Office of the Chief Administrative Law Judge hereby renders the official appeal decision on behalf of the Department of Homeland Security.

After reviewing the file, and after you confirmed you had not received any documents as of March 25, 2022, it appears PRIV has not provided you with an updated response. Accordingly, I am **REMANDING** this to PRIV to provide you with an updated letter advising you of the status of your request within 30 days of this letter.

Notwithstanding the above decision, as part of the 2007 FOIA amendments, the Office of Government Information Services (OGIS) was created to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. If you are requesting access to your own records (which is considered a Privacy Act request), you should know that OGIS does not have the authority to handle requests made under the Privacy Act of 1974. If you wish to contact OGIS, you may email them at ogis@nara.gov or call 1-877-684-6448.

Once I receive a response from PRIV, I will issue another letter disposing of your appeal. If after 30 days I do not receive a response, I or another attorney, will provide you with a letter supplying final agency action so that you may appeal this matter to district court, if you so choose.

Sincerely,

A handwritten signature in black ink that reads "Tommy Cantrell". The signature is written in a cursive style with a large, prominent "T" and "C".

Tommy Cantrell
Attorney Advisor
United States Coast Guard
U.S. Department of Homeland Security

Sent: Via email at the address indicated above.

Exhibit Q

From: Danielle Tarantolo <DTarantolo@nylag.org>
Sent: Friday, June 10, 2022 12:11 PM
To: Cantrell, Tommy B CIV USCG (USA)
Cc: Melissa Chua
Subject: NYLAG FOIA Appeal -- 2021-HQAP-00227 (FOIA)
Attachments: Chua 00227 Letter.pdf; Melissa Chua - 2021-HQAP-00226 - Appellant Letter - Final Agency Action.pdf; Melissa Chua - 2021-HQAP-00226 - Appellant Letter.pdf

Dear Tommy,

Thank you for your assistance in March with NYLAG's FOIA request 2021-IAFO-00006. At the time we spoke, your office had issued a February 4, 2022 FOIA Appeal decision as to DHS FOIA APPEAL NUMBER 2021-HQAP-00226, which covered the portion of NYLAG's original September 29, 2020 request that was assigned to I&A as FOIA request 2021-IAFO-00006. That appeal decision, attached for reference, directed I&A to provide within 30 days an explanation as to the sufficiency of its search for records in response to FOIA request 2021-HQFO-00013. I&A provided no such explanation, and on April 4, 2022, your office issued the attached "Final Agency Action" letter as to DHS FOIA APPEAL NUMBER 2021-HQAP-00226.

On April 27, your office issued the attached FOIA Appeal decision, via the email below, as to DHS FOIA APPEAL NUMBER 2021-HQAP-00227, which covered the component of NYLAG's original request that was assigned to the DHS Privacy Office as FOIA Request 2021-HQFO-00013. That appeal decision directed the DHS Privacy Office to provide within 30 days an updated letter advising NYLAG of the status of FOIA Request 2021-HQFO-00013. NYLAG has received no such letter, nor has NYLAG received production of any responsive documents. Accordingly, we respectfully request that your office promptly issue a "Final Agency Action" letter as to DHS FOIA APPEAL NUMBER 2021-HQAP-00227. While we appreciate your attention to this matter, please note that NYLAG currently considers all administrative appeals stemming from our original request to be exhausted, and our claims ripe for judicial review, regardless of the issuance of a "Final Agency Action" letter.

Best regards,
Danielle

Danielle F. Tarantolo

Director, Special Litigation Unit

7 Hanover Square | New York, NY 10004

t: 212.613.6551

f: 212.714.7589

dtarantolo@nylag.org

[Facebook](#) | [Instagram](#) | [Twitter](#) | [LinkedIn](#)

nylag.org



From: Meus, Lauren M CIV USCG (USA) <Lauren.M.Meus@uscg.mil>

Date: Wednesday, April 27, 2022 at 10:22 AM

To: Melissa Chua <mchua@nylag.org>

Subject: 2021-HQAP-00227 (FOIA)

Ms. Chua:

Please find attached the FOIA Appeal Decision issued by the Houston/Galveston office for the above matter.

Thank you,

Lauren M. Meus
Hearing Docket Clerk
U.S. Coast Guard

Exhibit R

From: Meus, Lauren M CIV USCG (USA) <Lauren.M.Meus@uscg.mil>
Sent: Wednesday, June 29, 2022 8:10 AM
To: Melissa Chua <mchua@nylag.org>
Cc: Danielle Tarantolo <DTarantolo@nylag.org>
Subject: 2021-HQAP-00227 (FINAL)

Ms. Chua:

Please find attached the FINAL FOIA Letter issued by the Houston/Galveston office for the above matter.

Thank you,

Lauren M. Meus
Hearing Docket Clerk
U.S. Coast Guard

U.S. Department of
Homeland Security

United States
Coast Guard



Office of the Administrative
Law Judge
United States Coast Guard

U.S. Courthouse
601 25th Street, Suite 508A
Galveston, Texas
Staff Symbol: ALJ-HOU
Phone: 409-765-1300
Fax: 409-765-1303

Email: Tommy.B.Cantrell@uscg.mil

5720
June 29, 2022

Melissa Chua
NYLAG
7 Hanover Square
18th Floor
New York, NY 10004
DTarantolo@nylag.org
mchua@nylag.org

RE: DHS FOIA APPEAL 2021-HQAP-00227; FOIA REQUEST 2021-HQFO-00013

Dear Ms. Chua:

On or about April 27, 2022, I **REMANDED** this matter and directed the Agency to provide a supplemental response concerning your initial FOIA request. My letter specifically gave the Agency 30 days to comply.

To date, I have not received a response from the Agency. Therefore, this letter constitutes final agency action and you are now able to appeal this matter to Federal District Court.

As part of the 2007 FOIA amendments, the Office of Government Information Services (OGIS) was created to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. If you are requesting access to your own records (which is considered a Privacy Act request), you should know that OGIS does not have the authority to handle requests made under the Privacy Act of 1974. If you wish to contact OGIS, you may email them at ogis@nara.gov or call 1-877-684-6448.

This decision is the final action of DHS FOIA APPEAL 2021-HQAP-00227. You may seek judicial review of this decision, per 5 U.S.C. §552(a)(4)(B) in either the United States District Court: 1) where you reside; 2) the district where the pertinent agency is situated; or 3) in the District of Columbia.

Sincerely,

A handwritten signature in black ink that reads "Tommy Cantrell". The signature is written in a cursive, slightly slanted style.

Tommy B. Cantrell
Attorney Advisor
United States Coast Guard
Department of Homeland Security

CC: FOIA Appeals Officer