



**U.S. Customs and
Border Protection**

SENT VIA EMAIL: FOIA@epic.org

July 24, 2017

CBP-2016-069873

Ari Lipsitz
EPIC
1718 Connecticut Ave. NW
Suite 200
Washington, DC 20009

Dear Mr. Lipsitz:

This is a final response to your Freedom of Information Act (FOIA) request to U.S. Customs and Border Protection (CBP), on behalf the Electronic Privacy Information Center (EPIC), in which you are seeking documents pertaining the 1:1 Facial Recognition Air Entry Pilot implemented in 2015.

A search of CBP databases produced a total of 118 pages of records responsive to your request. CBP has determined that 57 pages of the records are partially releasable, pursuant to Title 5 U.S.C. § 552 (b)(4), (b)(5), (b)(6), (b)(7)(C) and (b)(7)(E), and 61 pages will be withheld in full pursuant to Title 5 U.S.C. § 552 (b)(4), (b)(5), (b)(6), (b)(7)(C) and (b)(7)(E).

Attached to this email are 57 pages with certain information withheld as described below:

FOIA Exemption (b)(4)) exempts from disclosure trade secrets and commercial or financial information obtained from a person that is privileged or confidential.

FOIA Exemption (b)(5) exempts from disclosure information considered to be pre-decisional and deliberative, and inter-agency or intra-agency memoranda or letters which would not be available by law to a party other than an agency in litigation with the agency.

FOIA Exemption (b)(6) exempts from disclosure personnel or medical files and similar files the release of which would cause a clearly unwarranted invasion of personal privacy. This requires a balancing of the public's right to disclosure against the individual's right privacy. The types of documents and/or information that we have

withheld may consist of birth certificates, naturalization certificates, driver license, social security numbers, home addresses, dates of birth, or various other documents and/or information belonging to a third party that are considered personal. The privacy interests of the individuals in the records you have requested outweigh any minimal public interest in disclosure of the information. Any private interest you may have in that information does not factor into the aforementioned balancing test.

FOIA Exemption (b)(7)(C) protects records or information compiled for law enforcement purposes that could reasonably be expected to constitute an unwarranted invasion of personal privacy. This exemption takes particular note of the strong interests of individuals, whether they are suspects, witnesses, or investigators, in not being unwarrantably associated with alleged criminal activity. That interest extends to persons who are not only the subjects of the investigation, but those who may have their privacy invaded by having their identities and information about them revealed in connection with an investigation. Based upon the traditional recognition of strong privacy interest in law enforcement records, categorical withholding of information that identifies third parties in law enforcement records is ordinarily appropriate.

FOIA Exemption (b)(7)(E) protects records compiled for law enforcement purposes, the release of which would disclose techniques and/or procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law. CBP has determined that disclosure could reasonably be expected to risk circumvention of the law.

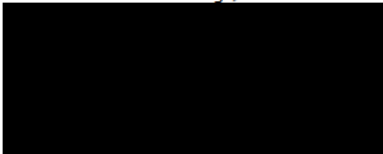
This completes the CBP response to your request. You may contact a FOIA Public Liaison by sending an email via your FOIAonline account, or call 202-344-1610.

If you are not satisfied with the response to this request, you have a right to appeal the final disposition. Should you wish to do so, you must file your appeal within 90 days of the date of this letter following the procedures outlined in the DHS regulations at Title 6 C.F.R. §5.9. Please include as much information as possible to help us understand the grounds for your appeal. You should submit your appeal via FOIAonline by clicking on the "Create Appeal" button that appears when you view your initial request. If you do not have computer access, you may send your appeal and a copy of this letter to: FOIA Appeals, Policy and Litigation Branch, U.S. Customs and Border Protection, 90 K Street, NE, 10th Floor, Washington, DC 20229-1177. Your envelope and letter should be marked "FOIA Appeal." Copies of the FOIA and DHS regulations are available at www.dhs.gov/foia.

Additionally, you have a 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.

Please notate file number CBP-2016-069873 on any future correspondence to CBP related to this request.

Sincerely,



FOIA Analyst, FOIA Division
Office of Diversity and Civil Rights