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October 14, 2015

VIA CERTIFIED MAIL

Associate General Counsel (General Law)
Mail Stop 0655
U.S. Department of Homeland Security
Washington, DC 20528

RE: Freedom of Information Act Appeal, 2015-HQFO-00706

Dear Associate General Counsel (General Law):

This letter constitutes an appeal under the Freedom of Information Act (FOIA), 5 U.S.C. § 552(a)(6)(A),[1] and is submitted to the Associate General Counsel (General Law) of the Department of Homeland Security (DHS), by the Electronic Privacy Information Center (EPIC).

This appeal arises from EPIC's September 22, 2015 request ("EPIC's FOIA Request") for documents in relation to the Priority Enforcement Program ("PEP"). EPIC seeks 1) all records including, but not limited to, communications, memos, and reports regarding PEP prepared or sent by the Office of Civil Rights and Civil Liberties since November 20, 2014; 2) all records including, but not limited to, documents, communications and reports regarding PEP prepared or sent by the Assistant Secretary for Intergovernmental Affairs; and 3) all communications between the agency and the Los Angeles Country Sheriff's Office and local officials in Los Angeles regarding PEP.

Procedural Background

On September 22, 2015, EPIC submitted via facsimile and via email EPIC's FOIA Request.[2] Included was a request for expedited treatment and a waiver of all assessable FOIA fees.[3]

On October 5, 2015, DHS wrote to EPIC, acknowledging receipt of EPIC's FOIA Request and assigning it the FOIA Reference Number 2015-HQFQ-00706.[4] In this letter, DHS denied EPIC's request for expedited processing on the basis that "the lack of expedited treatment in this case will not pose an imminent threat to the life or physical safety of an individual." Further, DHS stated that "[EPIC] is not primarily engaged in the

[1] *See also*, 6 C.F.R. §5.9(a).
[2] *EPIC's FOIA Request* (*See* Appendix A).
[3] *Id.*
[4] *DHS's Acknowledgment of FOI Request* (*See* Appendix B).

dissemination of information to the public," and that EPIC failed to show "an urgency to inform [EPIC's] limited audience about past DHS actions."[5]

As for the fee waiver, DHS's letter included a determination to conditionally grant EPIC's fee waiver request.[6] Under the conditional grant of a fee wavier, DHS will "provide two hours of search time and process the first 100 pages at no charge . . . ."[7] If DHS determines upon review of their documents that documents for disclosure does not comport with the requirements set forth in 6 C.F.R. § 5.11(K)(2), DHS can "deny [EPIC's] request for a fee waiver entirely, or [] 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."[8]

EPIC Appeals DHS's Denial of Expedited Processing

EPIC appeals DHS's assertion that EPIC failed to establish that "lack of expedited treatment in this case will pose an imminent threat to the life or physical safety of an individual," as required by 6 C.F.R. § 5.5(d)(1)(i).[9] In response to EPIC's request, DHS stated that the information sought was "retrospective" and that it will not have "a bearing on immediate and resultant future situation."[10]

The information sought will "have a bearing on immediate or resultant future situations." On October 7, 2015 DHS released a Memorandum of Understanding between the Sheriff of Fulton Country and ICE ("MOU") following a FOIA request made in regards to implementation of PEP in Georgia.[11] The implementation of PEP described in the MOU significantly departed from the DHS's public description of PEP.[12] While DHS publicly stated that, under PEP, ICE will only intervene local and state law enforcement agencies in respect to narrow category of individuals,[13] the MOU shows that ICE intends to investigate and track "foreign nationals that are arrested for felonies, significant misdemeanor, *or any other offences that could have a negative impact on public safety, but do not meet the current ICE guidelines.*"[14] This is not only a

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[5] *Id.*
[6] *Id.*
[7] *Id.*
[8] *Id.*
[9] *Id.*
[10] *Id.*
[11] Memorandum of Understanding Between the Sheriff of Fulton County and the U.S. Immigration and Customs Enforcement (available at https://www.splcenter.org/sites/default/files/proposed_mou-ice_in_fulton_county_jails.pdf)
[12] *See id.*
[13] Memorandum from Secretary of Department of Labor to Acting Director of U.S. Immigration and Customs Enforcement, Officer of Officer of Civil Rights and Civil Liberties, and Assistant Secretary for Intergovernmental Affairs (Nov. 20, 2014) (available at http://www.dhs.gov/sites/default/files/publications/14_1120_memo_secure_communities.pdf).
[14] Memorandum of Understanding Between the Sheriff of Fulton County and the U.S. Immigration and Customs Enforcement (available at https://www.splcenter.org/sites/default/files/proposed_mou-ice_in_fulton_county_jails.pdf)

misrepresentation, but also has immediate and future consequences. Arrestees who are not considered priorities under PEP are being investigated and tracked for deportation. For example, ICE agents detained Apolinar Sanchez Cornejo, a 67-year old immigrant, who has been in the United States for 23 years without a criminal record just few weeks ago in Los Angeles.[15] Without strict scrutiny of PEP, more victims are bound to arise. In addition, arrestees' personal data is in danger. ICE is receiving and using the biometric data of these arrestees for a purpose not allowed under the program without arrestees' awareness and without proper notice. If the information sought here is not quickly obtained, arrestees' life in the States and their personal data will suffer an imminent threat or harm.

EPIC also appeals DHS's assertion that EPIC is "not primarily engaged in the dissemination of information to the public.[16] In concluding so, DHS failed to consider *American Civil Liberties Union v. Department of Justice*, which held that EPIC is "indeed primarily engaged in disseminating information for the purposes of expediting the request."[17] EPIC's status as a representative of the news media that is primarily engaged in disseminating information has been firmly established. DHS's claim that EPIC has not shown that it has "the ability to educate the public beyond EPIC's limited constituency" is wrong as a matter of law.

DHS further stated that "[EPIC] did not offer any supporting evidence of public interest that is greater than the public's general interest in PEP programs" thereby failing to show urgency.[18] EPIC appeals this determination. Public interest in PEP is greater than the public's general interest. There have been numerous public records requests and requests to reconsider PEP by the public to DHS and to local and state law enforcement agencies.[19] For example, the National Day Laborer Organizing Network and the Southern Poverty Law Center (SPLC) have made FOIA requests regarding implementation of PEP.[20] Following DHS's disclosure of MOU to SPLC, members of the organization immediately requested a meeting with DHS and representatives of the local Atlanta ICE Field Office "to further discuss implementation of PEP . . . ."[21] In

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[15] Esther Yu-His Lee, *Ice Detains 67-Year-Old Grandfather Who Has Been In The U.S. For 23 Years Without A Criminal Record*, THINK PROGRESS, Oct. 2, 2015, http://thinkprogress.org/immigration/2015/10/02/3707844/ice-releases-grandfather-community/.

[16] *DHS's Acknowledgment of FOI Request* (*See* Appendix B).

[17] *American Civil Liberties Union v. Department of Justice*, 321 F. Supp. 2d 24, 29 n.5 (D.C. Cir. 2004).

[18] *DHS's Acknowledgement of FOIA Request* (*See* Appendix B).

[19] National Day Laborer Organizing Network's FOIA Request Regarding Priority Enforcement Program to Department of Homeland Security (Mar. 5, 2015) (available at http://ndlon.org/images/docs/PEP_FOIA_to_ICE.PDF); *see also* Immigration Proposals in Georgia County Violates Federal Policies, SOUTHERN POVERTY LAW CENTER, Oct. 7, 2015, https://www.splcenter.org/news/2015/10/07/splc-immigration-proposal-georgia-county-violates-federal-policies.

[20] *Id.*

[21] Letter to the Department of Homeland Security from Members of the Georgia Not1More Coalition (Oct. 7, 2015) (available at https://www.splcenter.org/sites/default/files/ga_not1more-fulton_county_mou-to_dhs.pdf).

other instance, the City Council in Texas urged the Travis Country Sheriff's Office "to stop reporting undocumented immigrants who are processed at the county jail to immigration authorities."[22] The interest of PEP, as shown, reaches beyond the public's general interest. EPIC's request is also timely because many jurisdictions have yet signed onto PEP.[23] Before these jurisdictions decide to participate in PEP, the public has the right to know how the program is actually being implemented. ICE's communication with Los Angeles law enforcement agency is especially of value to the public because Los Angeles, being one of the largest jurisdictions, has a crucial impact on other jurisdictions.

EPIC Appeals the DHS' Conditional Grant of Fee Waiver

DHS stated that EPIC's request for a fee waiver was conditionally granted upon consideration of the factors set forth in agency's FOIA regulations.[24] The agency also stated that "pursuant to DHS regulation applicable to non-commercial requesters, [DHS will] provide two hours of search time and process the first 100 pages at no charge . . . ." and that "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," it will either deny the fee waiver in its entirety or only apply the fee waiver to qualifying materials.[25]

First, the agency failed to classify EPIC as a "representative of the news media." In our original FOIA Request, we stated that EPIC is a "representative of the news media" for fee classification purposes as determined by the Federal District Court for the District of Columbia.[26] As stated in 6 C.F.R. § 5.11(d)(1), "no search fee [is] charged for requests made by . . . representatives of the news media."[27] Therefore, EPIC should not be charged any search time fees, even if the search time exceeds two hours.

The agency also erred in failing to grant EPIC's fee waiver request outright. A requester seeking a fee waiver must satisfy two requirements.[28] First, the requester must demonstrate that "disclosure of the requested information is in the public interest because it is likely to contribute to the public understanding of the operations or activities of the government . . . ." Second, the requester must demonstrate that the "disclosure of the information is not primarily in the commercial interest of the requester."[29]

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[22] Jack Craver, *Council urges restraint in reporting immigrants to ICE*, AUSTIN MONITOR, Oct. 9, 2015, http://www.austinmonitor.com/stories/2015/10/council-urges-restraint-reporting-immigrants-ice/.

[23] *See* Letter to the Department of Homeland Security from Members of the Georgia Not1More Coalition (Oct. 7, 2015) (available at https://www.splcenter.org/sites/default/files/ga_not1more-fulton_county_mou-to_dhs.pdf).

[24] *Id.*

[25] *Id.*

[26] *See EPIC's FOIA Request* (*See* Appendix A).

[27] 6 C.F.R. § 5.11(d)(1).

[28] 6 C.F.R. § 5.11(k).

[29] 6 C.F.R. § 5.11(k).

As acknowledged by the DHS, the second requirement for granting a fee waiver is met. As the agency conceded in the initial response, EPIC is not requesting the Agreement for any commercial purpose.[30]

In determining whether the first requirement is met, DHS considers the following four factors: (i) "whether the subject of the requested records concerns the operations or activities of the government"; (ii) "whether the disclosure is likely to contribute to an understanding of government operations or activities and the information is not already is in the public domain"; (iii) "whether disclosure of the requested information will contribute to public understanding"; and/or (iv) "whether the disclosure is likely to contribute significantly to public understanding of government operations or activities."[31]

The subject of PEP concerns the "operations or activities of the government" because it involves the acts of ICE agents as well as local and state law enforcement agencies in the transfer of arrestee's biometric data for deportation efforts.

The disclosures of information sought will "likely to contribute to an understanding of government operations or activities." Due to lack of transparency, the public has no way of knowing whether ICE is in compliance with its own program. The disclosed information will contribute to public's understanding of the program by outlining PEP's objectives and procedures in local and state law enforcement agencies.

The disclosures of information sought will "contribute to public understanding." Once the public is aware of workings of PEP, they will be able to meaningfully assess the adequacy of the program and participate in local legislative debates to adopt or abandon PEP.

The disclosures of information sought will contribute "significantly to public understanding of government operations or activities." Since the public lacks information on how PEP is actually being implemented, the release of the requested records will contribute "significantly" to the public understanding of implementation of PEP.

Accordingly, EPIC should be classified as "representative of news media," which in effect will eliminate any search time charges, and additionally requests that fee waiver be granted in regards to the duplication charges.

Conclusion

EPIC appeals DHS's decision to deny expedited treatment of EPIC's FOIA Request and DHS's determination to conditionally grant a fee waiver for EPIC's FOIA Request. As provided by FOIA, I anticipate you will make an "expeditious" determination but no later than twenty (20) working days.[32]

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[30] *See DHS's Acknowledgment of FOIA Request* (*See* Appendix B).
[31] 6 C.F.R. § 5.11(k)(2).
[32] 5 U.S.C. § 552(a)(6)(A)(ii).

Thank you for your consideration of this appeal. For questions, I can be contacted at 202-483-1140 x104 or FOIA@epic.org.

Respectfully Submitted,

Zaneta Kim
EPIC Student Intern

John Tran
EPIC FOIA Counsel
Coordinator, Open Government Project

/enclosures

APPENDIX A

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September 22, 2015

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

Dear Ms. Neuman:

This letter constitutes a request under the Freedom of Information Act ("FOIA"), 5 U.S.C. §552, and is submitted on behalf of the Electronic Privacy Information Center ("EPIC") to the Department of Homeland Security ("DHS").

EPIC's request pertains to the Priority Enforcement Program ("PEP") designed and implemented by the DHS. PEP allows the DHS to take custody of individuals considered "priorities," with the help of local and state law enforcement agencies.

Document Requested

1. All records including, but not limited to, communications, memos, and reports regarding PEP prepared or sent by the Office of Civil Rights and Civil Liberties since November 20, 2014;

2. All records including, but not limited to, documents, communications and reports regarding PEP prepared or sent by the Assistant Secretary for Intergovernmental Affairs; and

3. All communications between the agency and the Los Angeles County Sheriff's Office and local officials in Los Angeles regarding PEP.

Background

On November 20, 2014, the Secretary of the DHS, Jeh Johnson, stated in a memo, "The Secure Communities program, as we know it, will be discontinued."[1] The Secure Communities program ("SCOMM"), launched in March 2008, essentially identified deportable immigrants in local and state jails.[2] Under this program, fingerprints of individuals booked into local and state jails were sent not only to the Federal Bureau of Investigation ("FBI"), but also to the U.S. Immigration and Customs Enforcement ("ICE").[3] The SCOMM was to be replaced by the PEP after facing a great deal of public hostility.[4] To that end, Secretary Johnson directed the Office of Civil Rights and Civil Liberties "to develop and implement a plan to monitor state and local law enforcement agencies participating in such transfers."[5] In addition, he directed the Assistant Secretary for Intergovernmental Affairs "to formulate a plan and coordinate an effort to engage state and local governments about [PEP] and related changes to our enforcement policies."[6]

According to Johnson's statement on the DHS' blog, posted July 20, he is working with the "Sheriff's Office and local elected officials in Los Angeles and across the country to implement PEP in a way that supports community policing and public safety while ensuring that ICE takes custody of dangerous individuals before they are released into the community."[7]

At the heart of PEP lies the collection of data.[8] Under PEP, local and state law enforcement agencies send the biometric data of individuals booked into their jails to ICE.[9] While the collection of this data may be a necessary element in law enforcement, there is always a temptation and a risk of data misuse. For example, DHS may use the database to take custody of individuals that are not considered "priority."

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[1] Memorandum from Secretary of Department of Labor to Acting Director of U.S. Immigration and Customs Enforcement, Officer of Officer of Civil Rights and Civil Liberties, and Assistant Secretary for Intergovernmental Affairs (Nov. 20, 2014) (available at http://www.dhs.gov/sites/default/files/publications/14_1120_memo_secure_communities.pdf).

[2] *Secure Communities: A Fact Sheet*, AMERICAN IMMIGRATION COUNCIL, http://www.immigrationpolicy.org/just-facts/secure-communities-fact-sheet (last modified Nov. 29, 2011).

[3] *Id.*

[4] *Id.*

[5] Memorandum from Secretary of Department of Labor to Acting Director of U.S. Immigration and Customs Enforcement, Officer of Officer of Civil Rights and Civil Liberties, and Assistant Secretary for Intergovernmental Affairs (Nov. 20, 2014) (available at http://www.dhs.gov/sites/default/files/publications/14_1120_memo_secure_communities.pdf).

[6] *Id.*

[7] *Priority Enforcement Program – How DHS is Focusing on Deporting Felons*, DEPARTMENT OF HOMELAND SECURITY, http://www.dhs.gov/blog/2015/07/30/priority-enforcement-program-%E2%80%93-how-dhs-focusing-deporting-felons (last modified Jul. 20, 2015).

[8] *See Fixing Our Broken Immigration System Through Executive Action – Key Facts*, DEPARTMENT OF HOMELAND SECURITY, http://www.dhs.gov/immigration-action (last modified Aug. 19, 2015).

[9] *Id.*

Expedited Processing

Expedited processing is justified because the request: 1) is made by an organization "primarily engaged in disseminating information"; and 2) covers information about which there is an "urgency to inform the public about an actual or alleged federal government activity."[10]

EPIC is an organization "primarily engaged in disseminating information."[11] Further, EPIC has previously published articles and analysis on various aspects of SCOMM.[12] EPIC previously urged the Inspector General of the Department of Justice to review SCOMM.[13]

There is an "urgency to inform the public" about the newly implemented PEP. Last month, more than 200 immigrants in Los Angeles were taken into custody after an ICE raid. According to ICE, 56 percent of those in custody were serious or violent offenders and 44 percent had previous convictions for "significant or multiple misdemeanors."[14] However, due to lack of transparency, the public cannot verify the accuracy of this statement. Without any safeguards, PEP is being used to deport immigrants as local and state law enforcement agencies as deportation agents. There is a strong concern among the public that this program is a mere continuation of the failed SCOMM with same deficiencies.[15]

Request for "News Media" Fee Status and Fee Waiver

EPIC is a "representative of the news media" for fee classification purpose.[16] Based on EPIC's status as a "news media" requester, EPIC is entitled to receive the requested record with only duplication fees assessed.[17]

Further, because disclosure of this information will "contribute significantly to public understand of the operations or activities of the government," any duplication fees should be waived.[18] According to the agency's regulations, a fee waiver should be granted because (i) the subject of the request concerns "the operations or activities of the government"; (ii) disclosure is "likely to contribute" to an understanding of government operations or activities and the information is not already in the public domain; (iii) the disclosure "will contribute to the understand of a reasonable broad audience of persons interested in the subject," and EPIC has the "Expertise in the subject area and ability and intention to effectively convey information to the

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[10] 5 U.S.C. § 552(a)(6)(E)(v)(II); *Al-Fayed v. CIA*, 254 F.3d 306 (D.C. Cir. 2001).
[11] *American Civil Liberties Union v. Department of Justice*, 321 F. Supp. 2d 24, 29 n.5 (D.C. Cir. 2004).
[12] *See id.*
[13] *Secure Communities and Privacy*, EPIC (2015), https://epic.org/privacy/secure_communities/ (last modified Nov. 24, 2014).
[14] Sid Garcia, *244 Undocumented Immigrants Arrested Across SoCal in 4-Day Ice Raid*, ABC 7 EYEWITNESS NEWS, Aug. 31, 2015, http://abc7.com/news/244-undocumented-immigrants-arrested-in-4-day-ice-raid/964350/.
[15] *See Priority Enforcement Program –Why 'PEP' Doesn't Fix S-Comm's Failings*, NATIONAL IMMIGRATION LAW CENTER, http://www.nilc.org/PEPnotafix.html (last modified Jun. 2015).
[16] *EPIC v. Department of Defense*, 241 F. Supp. 2d 5 (D.D.C. 2003).
[17] 5 U.S.C. § 552(a)(4)(ii)(II).
[18] § 552(a)(4)(ii)(II).

public" (As the agency notes, "[i]t shall be presumed that a representative of the news media will satisfy this consideration."); and, (iv) the disclosure is likely "to contribute 'significantly' to public understanding of government operations or activities."[19]

Conclusion

Thank you for your consideration of this request. As provided in 5 U.S.C. § 522(a)(6)(E)(ii)(I), I will anticipate your determination on our request within ten business days. For questions regarding this request, I can be contacted at 202-483-1140 or FOIA@epic.org.

Respectfully submitted,

Zaneta Kim
EPIC Student Intern

John Tran
EPIC FOIA Counsel
Coordinator, Open Government Project

[19] *See* 6 C.F.R. § 5.11(k).

APPENDIX B

U.S. Department of Homeland Security
Washington, DC 20528

Homeland Security

Privacy Office, Mail Stop 0655

October 5, 2015

SENT VIA E-MAIL TO: FOIA@epic.org

Zaneta Kim
EPIC
1718 Connecticut Ave NW
Sui1e 200
Washington, DC 20009

Re: 2015-HQFO-00706

Dear Ms. Kim:

This letter acknowledges receipt of your Freedom of Information Act (FOIA) request to the Department of Homeland Security (DHS), dated September 22, 2015, and to your request for expedited treatment. This office received your request on September 25, 2015. Specifically, you requested EPIC's request pertains to the Priority Enforcement Program ("PEP") designed and implemented by DHS. 1. All records including, but not limited to, communications, memos, and reports regarding PEP prepared or sent by the Office of Civil Rights and Civil Liberties since November 20, 2014; 2. All records including, but not limited to, documents, communications and reports regarding PEP prepared or sent by the Assistant Secretary for Intergovernmental Affairs; and 3. All communications between the agency and the Los Angeles County Sheriff s Office and local officials in Los Angeles regarding PEP.

Your request for expedited treatment is hereby denied.

Under the DHS FOIA regulations, 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," 6 C.F.R. § 5.5(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," 6 C.F.R. § 5.5(d)(l)(ii). Requesters seeking expedited processing must submit a statement explaining in detail the basis for the request, and that statement must be certified by the requester to be true and correct. 6 C.F.R. § 5.5(d)(3).

Your request for expedited processing is denied because you do not qualify for either category under 6 C.F.R. § 5.5(d)(1). You have not established that lack of expedited treatment in this case will pose an imminent threat to the life or physical safety of an individual. The information

sought in your request is retrospective and you have not established that the information would have a bearing on immediate or resultant future situations. In addition, you are not primarily engaged in the dissemination of information to the public. You have not shown that you have the ability to educate the public beyond EPIC's limited constituency, nor have you established with the requisite specificity why you feel there is an urgency to inform your limited audience about past DHS actions. Qualifying urgency would need to exceed the public's right to know about government activity generally. Finally, you did not offer any supporting evidence of public interest that is any greater than the public's general interest in PEP programs.

You have requested a fee waiver. The DHS FOIA Regulations at 6 CFR § 5.11(k)(2) 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 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 Interim FOIA regulations as they apply to non-commercial requestors. 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.

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. § 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. As your request seeks documents that will require a thorough and wide-ranging search, DHS will invoke a 10-day extension for your request pursuant to 5 U.S.C. § 552(a)(6)(B). 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.

Please be advised that we transferred item one of your request to CRCL, and item three of your request to ICE for review and direct response to you. Their contact information can be located at http://www.dhs.gov/foia-contact-information .

If you deem the decision to deny expedited treatment of your request an adverse determination, you may exercise your appeal rights. Should you wish to do so, you must send your appeal and a copy of this letter within 60 days of the date of this letter to: Associate General Counsel (General Law), Mailstop 0655, U.S. Department of Homeland Security, Washington, D.C. 20528, following the procedures outlined in 6 C.F.R. § 5.9. Your envelope and letter should be marked "Freedom of Information Act Appeal." Copies of the DHS regulations are available at: www.dhs.gov/foia.

We have queried the appropriate component of DHS for responsive records for item two of your request. 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 **2015-HQFO-00706**. Please refer to this identifier in any future correspondence. To check the status of your FOIA request, you may contact this office at 1-866-431-0486 or 202-343-1743, or you may check the status of your request online at http://www.dhs.gov/foia-status.

Sincerely,

/s/

Maura Busch
FOIA Program Specialist