

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

THE INTERCEPT MEDIA, INC.,
15 W 38th St, Unit 636
New York, NY 10018-5501,

Plaintiff,

vs.

U.S. DEPARTMENT OF HOMELAND
SECURITY
2707 Martin Luther King Jr. Ave. SE
Washington, DC 20528-0485,

IMMIGRATION AND CUSTOMS
ENFORCEMENT
500 12th Street SW, Stop 5900
Washington, DC 20536-5900,

U.S. CUSTOMS AND BORDER
PROTECTION
1300 Pennsylvania Avenue,
Washington, D.C. 20229,

Defendants.

Case No. 26-

COMPLAINT FOR INJUNCTIVE RELIEF

Plaintiff The Intercept Media, Inc. (“The Intercept”) brings this action against Defendants U.S. Department of Homeland Security (“DHS”), Immigration and Customs Enforcement (“ICE”), and U.S. Customs and Border Protection (“CBP”) to compel compliance with the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”). Plaintiff alleges as follows:

Jurisdiction and Venue

1. This Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331.

2. Venue is proper under 28 U.S.C. § 1391(e), as Plaintiff is located in the State of New York, maintains headquarters within this district, and a substantial part of the events or omissions giving rise to Plaintiff's claims occurred here.

Parties

3. Plaintiff The Intercept is an award-winning national online news organization that covers politics, immigration, national security, and law enforcement issues in the United States. The Intercept aspires to drive meaningful change by empowering the public with information to demand a better world from institutions and leaders.

4. Defendant DHS is a federal agency within the meaning of FOIA, 5 U.S.C. § 552(f)(1), and is headquartered in Washington, D.C. DHS has possession, custody, and control of records to which Plaintiff seeks access.

5. Defendant ICE is a federal agency within the meaning of FOIA, 5 U.S.C. § 552(f)(1), and is headquartered in Washington, D.C. ICE has possession, custody, and control of records to which Plaintiff seeks access.

6. Defendant CBP is a federal agency within the meaning of FOIA, 5 U.S.C. § 552(f)(1), and is headquartered in Washington, D.C. CBP has possession, custody, and control of records to which Plaintiff seeks access.

Facts

7. Sweeping immigration enforcement actions performed by DHS, and its component agencies, including ICE and CBP, in recent months have led to a countermovement of civilians

protesting and recording immigration enforcement actions in cities and towns across the United States. Public reporting and social media posts have suggested increasing surveillance of such protestors by DHS and its component agencies during and following these encounters.

8. A video posted to X (formerly known as Twitter) on January 23, 2026, depicts federal agents recording a protester, saying that they were recording her “because we have a nice little database, and now you’re considered a domestic terrorist.”¹

9. In a court hearing regarding immigration enforcement actions in Minnesota, attorneys for the state of Minnesota reportedly included an exhibit of a recording of a federal agent saying, “Well, this person is gonna have a hard time traveling from now on’ after taking a photo of an ICE observer’s license plate.”²

10. CNN has reported that “[a] memo sent [in January] to agents temporarily assigned to the city asked them to ‘capture all images, license plates, identifications, and general information on hotels, agitators, protestors, etc., so we can capture it all in one consolidated form.”³

11. In a second court case, a civilian observing ICE submitted a declaration stating that her TSA PreCheck and Global Entry were revoked three days after an encounter with immigration enforcement officials.⁴ Additionally, at least one prominent supporter of transgender rights has reportedly had her Global Entry and U.S. passport cancelled in the past few months.⁵

12. These public reports indicate that records responsive to Plaintiff’s FOIA requests

¹ See Brian Allen (@allenanalysis), X (Jan. 23, 2026, 10:46 AM), <https://x.com/allenanalysis/status/2014726554622816585>.

² See Mueller, She Wrote (@muellershewrote.com), Bluesky (Jan. 26, 2026, 10:25 AM), <https://perma.cc/MTR5-HTRK>.

³ See Jeff Winter & Priscilla Alvarez, *Alex Pretti broke rib in confrontation with federal agents a week before death, sources say*, CNN (updated Jan. 27, 2026), <https://perma.cc/J95X-R2DW>.

⁴ See Decl. of Nicole Cleland (Hereinafter “Cleland Decl.”) at 3, *Tincher v. Noem*, 0:25-cv-04669, (D. Minn. Jan. 21, 2026), ECF No. 98, available at: <https://perma.cc/LLP4-SNXE>.

⁵ See Suzanne Blake, *Woman Says Identity ‘Wiped’ From Passport System, Got ‘Unusual’ Message*, Newsweek (last updated Jan. 13, 2026), <https://perma.cc/QXZ8-RTDE>.

(described in further detail below) exist and that their disclosure would further important public interests. To shed light on the federal government's actions that may impact the travel and privacy rights of civilian protestors, Plaintiff filed several FOIA requests:

Protestor Database & Surveillance Policies

13. On February 23, 2026, Plaintiff sent a FOIA request to ICE and CBP seeking the following:

- (1) All records reflecting policies, memoranda, directives, field guides, training materials, standard operating procedures, or emailed instructions regarding the creation of a database or adding new entries to a database of people protesting, recording, or otherwise present near DHS immigration enforcement actions, including those deemed to be engaged in potential obstruction, "agitators," or "domestic terrorists."
- (2) All records reflecting policies, memoranda, directives, field guides, training materials, standard operating procedures, or emailed instructions regarding collecting information about people protesting, recording, or otherwise present near DHS immigration enforcement actions, including those deemed to be engaged in potential obstruction, "agitators," or "domestic terrorists." Responsive records should include, at a minimum, a copy of the memorandum sent by a DHS official in Minneapolis to ICE officers assigned to Minnesota in January 2026.⁶
- (3) All records reflecting policies, memoranda, directives, field guides, training materials, standard operating procedures, or emailed instructions regarding how the photos and videos that DHS immigration enforcement officers take of people protesting, recording, or otherwise present near DHS immigration enforcement actions, including those deemed to be engaged in potential obstruction, "agitators," or "domestic terrorists," will be stored.
- (4) A copy of the template form titled "intel collection non-arrests," or something similar.⁷

14. The request sought records from January 20, 2025, until the date of the search.

15. ICE assigned the request tracking number 2026-ICFO-18256.

⁶ The Intercept's FOIA request cited Winter & Alvarez, *supra* note 3.

⁷ Here too, The Intercept's FOIA request cited Winter & Alvarez, *supra* note 3.

16. On February 24, 2026, CBP sent Plaintiff a letter acknowledging this request and assigning it tracking number CBP-FO-2026-065579. CBP's letter further stated that it had transferred the request to ICE for processing and direct response to Plaintiff and that "[t]his completes the CBP response to your request."

17. On March 4, 2026, Plaintiff appealed CBP's closure on the grounds that CBP's automatic referral—which occurred within one business day after Plaintiff submitted this FOIA request—contravened CBP's obligation under FOIA to conduct a good faith search reasonably calculated to uncover all relevant documents. Exhibit A.

18. CBP assigned Plaintiff's appeal tracking number CBP-AP-2026-005527.

19. Plaintiff has received no further communication from ICE or CBP regarding this FOIA request.

Mobile Fortify Policies, Directives, Records

20. On February 23, 2026, Plaintiff sent a FOIA request to ICE and CBP seeking the following:

- (1) All records reflecting policies, directives, field guides, training materials, standard operating procedures, or emailed instructions related to the use of the Mobile Fortify application, including but not limited to policies regarding handling of refusal by individuals to be scanned with the application.
- (2) All records reflecting policies, directives, field guides, training materials, standard operating procedures, or emailed instructions related to the use of the Customs and Border Patrol's ("CBP") Traveler Verification Service for your agency's immigration enforcement and removal operations.
- (3) All records reflecting policies, directives, field guides, training materials, standard operating procedures, or emailed instructions related to the use of CBP's Unified Passenger Login System for your agency's immigration enforcement and removal operations.

- (4) All records reflecting policies, directives, field guides, training materials, standard operating procedures, or emailed instructions regarding how photos that immigration agents take with the Mobile Fortify application will be stored.
 - (5) All records, logs, or aggregated data regarding the capture of biometric data of U.S. citizens, including but not limited to data on the number of searches of U.S. citizens run on Mobile Fortify.
 - (6) Any and all privacy assessments conducted regarding the use of Mobile Fortify on U.S. Citizens.
21. The request sought records from January 20, 2025, until the date of the search.
 22. ICE assigned the request tracking number 2026-ICFO-18263.
 23. On February 24, 2025, CBP acknowledged this request and assigned it tracking number CBP-FO-2026-065598. CBP informed Plaintiff that “it may take 6-9 months to receive a response to [this] FOIA request.”
 24. Plaintiff has received no further communication from ICE or CBP regarding this FOIA request.

CBP Protestor Database & Surveillance Communications

25. On February 23, 2026, Plaintiff sent a FOIA request to CBP seeking the following:

All electronic communications (including emails, email attachments, complete email chains, calendar invitations, calendar invitation attachments, text messages or messages on applications such as Signal or Whatsapp, messages on messaging platforms such as Slack or Microsoft Teams, and direct messages on social media platforms such as Truth Social or X **sent** by the individuals listed below (A) containing any of the below key terms (B):
 - A. Officials:
 - a. Commissioner Rodney Scott
 - b. Former Acting Commissioner Pete Flores
 - c. Anyone serving in the capacity of Deputy Commissioner, including John Modlin
 - d. Anyone serving in the capacity of Chief of United States Border Patrol, including Michael Banks
 - e. Anyone serving in the capacity of Acting Executive

Assistant Commissioner of Field Operations, including Diane Sabatino

- f. Anyone serving in the capacity of Assistant Commissioner for Intelligence, including Ronald J. Ocker⁸

B. Key terms:

- a. Database
- b. Databases
- c. Watchlist
- d. “Domestic terrorist”
- e. “Domestic act of terrorism”
- f. “Domestic terrorism”
- g. Agitator
- h. PreCheck
- i. “Pre check”
- j. Pre-check
- k. “Global Entry”
- l. “First Amendment”
- m. “1st Amendment”
- n. “Mobile Fortify”
- o. NEC
- p. ImmigrationOS
- q. Palantir
- r. Elite
- s. “Enhanced Leads Identification”
- t. “Targeting for Enforcement”
- u. “Facial recognition”
- v. Antifa
- w. “Aggressive protestor”
- x. Bluekey⁹
- y. Grapevine
- z. Hummingbird
- aa. Reaper
- bb. Sandcastle
- cc. Sienna
- dd. Slipstream
- ee. Sparta

- 26. The request sought records from January 20, 2025, until the date of the search.

⁸ The Intercept’s FOIA request specified that Plaintiff is only requesting non-classified systems communications.

⁹ The Intercept’s FOIA request explained terms *x* through *ee* refer to reported nicknames or code names of watchlists, databases, or other tracking documents used by DHS, its components, and the Federal Bureau of Investigations. See Ken Klippenstein, *Exclusive: ICE’s Secret Watchlists of Americans*, Substack (Jan. 28, 2026), <https://perma.cc/XK32-N6KN>.

27. The request also specified that CBP’s search for responsive records must include both official and personal devices and applications such as Signal, iMessage, and WhatsApp.¹⁰

28. On February 24, 2026, CBP acknowledged this request and assigned it tracking number CBP-FO-2026-065578. CBP also informed Plaintiff that because of “unusual circumstances,” specifically the need for consultation with multiple components within CBP or another agency, CBP was invoking a 10-day extension for this request, as permitted by FOIA.

29. Plaintiff has received no subsequent communication from CBP regarding this FOIA request.

ICE Protestor Database & Surveillance Communications

30. On February 23, 2026, Plaintiff sent a FOIA request to ICE seeking the following:

All electronic communications (including emails, email attachments, complete email chains, calendar invitations, calendar invitation attachments, text messages or messages on applications such as Signal or Whatsapp, messages on messaging platforms such as Slack or Microsoft Teams, and direct messages on social media platforms such as Truth Social or X **sent** by the individuals listed below (A) containing any of the below key terms (B):

A. Officials:

ICE

- a. Anyone serving in the capacity of Acting Director, including Caleb Vitello and Todd Lyons
- b. Anyone serving in the capacity of Deputy Director, including Madison Sheahan and Charles Wall
- c. Anyone serving in the capacity of Chief of Staff, including Jon Feere and Jason Killmeyer
- d. Anyone serving in the capacity of Senior Advisor, including Jon Feere
- e. Anyone serving in the capacity of Executive Associate Director for Enforcement and Removal Operations or

¹⁰ The Intercept’s FOIA request explained that reporting has indicated that government officials may be using personal devices to conduct government business, and that they are also using non-government messaging applications such as Signal, and cited Jeffrey Goldberg, *The Trump Administration Accidentally Texted Me Its War Plans*, Atlantic (Mar. 24, 2025), <https://perma.cc/4AQQ-FRMW>, and Steve Witkoff (@SteveWitkoff), X (Mar. 26, 2025, at 9:20 ET), <https://perma.cc/8QBC-MJ8T>.

Acting Executive Associate Director for Enforcement and Removal Operations (“ERO”), including Kenneth Genalo and Marcos Charles

- f. Anyone serving in the capacity of Deputy Assistant Director of Field Operations, including Matthew Elliston
- g. Anyone serving in the capacity of Deputy Associate Director for ERO or Acting Deputy Associate Director for ERO, including Mellissa Harper
- h. Anyone serving in the capacity of Assistant Director for ERO Field Operations, including Tom Giles
- i. Anyone serving in the capacity of Assistant Field Office Director for Enforcement and Removal Operations, including Carlos Cisneros

B. Key terms:

- a. Database
- b. Databases
- c. Watchlist
- d. “Domestic terrorist”
- e. “Domestic act of terrorism”
- f. “Domestic terrorism”
- g. Agitator
- h. PreCheck
- i. “Pre check”
- j. Pre-check
- k. “Global Entry”
- l. “First Amendment”
- m. “1st Amendment”
- n. “Mobile Fortify”
- o. NEC
- p. ImmigrationOS
- q. Palantir
- r. Elite
- s. “Enhanced Leads Identification”
- t. “Targeting for Enforcement”
- u. “Facial recognition”
- v. Antifa
- w. “Aggressive protestor”
- x. Bluekey¹¹
- y. Grapevine
- z. Hummingbird
- aa. Reaper
- bb. Sandcastle

¹¹ The Intercept’s FOIA request explained terms *x* through *ee* refer to reported nicknames or code names of watchlists, databases, or other tracking documents used by DHS, its components, and the Federal Bureau of Investigations. See Klippenstein, *Exclusive: ICE’s Secret Watchlists of Americans*, *supra* note 10.

cc. Sienna
dd. Slipstream
ee. Sparta

31. The request sought records from January 20, 2025, until the date of the search.
32. The request also specified that ICE's search for responsive records must include both official and personal devices and applications such as Signal, iMessage, and WhatsApp.¹²
33. ICE assigned the request tracking number 2026-ICFO-18255.
34. Plaintiff has received no further communication from ICE regarding this FOIA request.

TSA PreCheck, Global Entry, Passport Policies for Protestors

35. On February 23, 2026, Plaintiff sent a FOIA request to ICE and CBP seeking the following:
 - (1) All records reflecting policies, directives, field guides, training materials, standard operating procedures, or emailed instructions regarding revoking TSA PreCheck or Global Entry from people protesting, recording, or otherwise present near DHS immigration enforcement actions, including those deemed to be engaged in potential obstruction, "agitators," or "domestic terrorists."
 - (2) All records reflecting policies, directives, field guides, training materials, standard operating procedures, or emailed instructions regarding cancelling passports or removing from the U.S. passport system people protesting, recording, or otherwise present near DHS immigration enforcement actions, including those deemed to be engaged in potential obstruction, "agitators," or "domestic terrorists."
 - (3) All records reflecting policies, directives, field guides, training materials, standard operating procedures, or emailed instructions regarding flagging U.S. passport holders as "agitators."

36. The request sought records from January 20, 2025, until the date of the search.

¹² The Intercept's FOIA request explained that reporting has indicated that government officials may be using personal devices to conduct government business, and that they are also using non-government messaging applications such as Signal, and cited Goldberg, *The Trump Administration Accidentally Texted Me*, *supra* note 10, and Witkoff, *supra* note 10.

37. ICE assigned the request tracking number 2026-ICFO-18257.

38. On February 24, 2026, CBP acknowledged this request and assigned it tracking number CBP-FO-2026-065590. CBP further informed Plaintiff that it was combining this request with Plaintiff's other request CBP-FO-2026-065578 (described above in *CBP Protestor Database & Surveillance Communications*), on the grounds that any records responsive to request CBP-FO-2026-065590, "should they exist within CBP would have been discussed, transmitted, or shared via email by the CBP leadership named in [Plaintiff's] other FOIA request CBP-FO-2026-065578." CBP, accordingly, closed this request as a duplicate of CBP-FO-2026-065578.

39. On June 22, 2026, ICE informed Plaintiff that it had referred the request to CBP for processing and direct response to Plaintiff.

40. Plaintiff has received no further communication from ICE or CBP regarding this FOIA request.

Exhaustion of Administrative Remedies

41. As of the date of this Complaint, Defendants have failed to notify Plaintiff of determinations regarding the FOIA requests and appeal described herein. Through Defendants' failure to respond within the time limits required by law, Plaintiff has constructively exhausted administrative remedies on these requests. 5 U.S.C. § 552(a)(6)(C)(i).

CLAIM FOR RELIEF
Count 1 (Violation of FOIA, 5 U.S.C. § 552)

1. Plaintiff incorporates by reference the foregoing paragraphs as though fully set forth herein.

2. By failing to respond to Plaintiff's requests with determinations within the statutorily mandated time period, Defendants have violated their duties under 5 U.S.C. § 552, including but not limited to, their duties to conduct a reasonable search for responsive records, to

take reasonable steps to release all nonexempt information, and to not withhold non-exempt portions of responsive records.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff requests that this Court:

1. Order Defendants to conduct adequate searches for any and all responsive records to Plaintiff's FOIA requests using search methods reasonably calculated to lead to discovery of all responsive records;
2. Order Defendants to produce any and all non-exempt responsive records and a *Vaughn* index of any responsive records withheld under a claim of exemption;
3. Enjoin Defendants from continuing to withhold any and all non-exempt responsive records;
4. Award Plaintiff's its costs, attorneys' fees, and other disbursements for this action; and
5. Grant any other relief this Court deems appropriate.

Dated: June 24, 2026

Respectfully submitted,

/s/ Amy C. Vickery

Amy C. Vickery
(S.D.N.Y. Bar. No. 5942271)
Daniel A. McGrath
(S.D.N.Y. Bar No. 5541198)
Ronald A. Fein
(D.C. Bar No. 90026641)*
Robin F. Thurston
(D.C. Bar No. 7268942)*

Democracy Forward Foundation
P.O. Box 34553
Washington, D.C. 20043
(202) 448-9090
avickery@democracyforward.org
dmcgrath@democracyforward.org
rfein@democracyforward.org
rthurston@democracyforward.org

Counsel for Plaintiff

**S.D.N.Y. pro hac vice forthcoming*

Exhibit A

March 4, 2026

VIA electronic delivery

FOIA Appeals
Policy and Litigation Branch
U.S. Customs and Border Protection
90 K Street, NE, 10th Floor
Washington, DC 20229-1177

Re: Appeal of Response to Freedom of Information Act Request #CBP-FO-2026-065579

Dear FOIA Officer:

Democracy Forward Foundation (“DFF”) submitted the FOIA request **CBP-FO-2026-065579** on behalf of the Intercept on February 23, 2026. We write to appeal the U.S. Customs and Border Protection’s (“CBP”) response to the attached FOIA request, which requested records related to CBP’s interactions with the public. Specifically, the request sought:

1. All records reflecting policies, memoranda, directives, field guides, training materials, standard operating procedures, or emailed instructions regarding the creation of a database or adding new entries to a database of people protesting, recording, or otherwise present near DHS immigration enforcement actions, including those deemed to be engaged in potential obstruction, “agitators,” or “domestic terrorists.”
2. All records reflecting policies, memoranda, directives, field guides, training materials, standard operating procedures, or emailed instructions regarding collecting information about people protesting, recording, or otherwise present near DHS immigration enforcement actions, including those deemed to be engaged in potential obstruction, “agitators,” or “domestic terrorists.” Responsive records should include, at a minimum, a copy of the memorandum sent by a DHS official in Minneapolis to ICE officers assigned to Minnesota in January 2026.
3. All records reflecting policies, memoranda, directives, field guides, training materials, standard operating procedures, or emailed instructions regarding how the photos and videos that DHS immigration enforcement officers take of people protesting, recording, or otherwise present near DHS immigration enforcement actions, including those deemed to be engaged in potential obstruction, “agitators,” or “domestic terrorists,” will be stored.
4. A copy of the template form titled “intel collection non-arrests,” or something similar.

This request seeks records from January 20, 2025 until the date of the search.

CBP responded on February 24, 2026, “Due to the subject matter, CBP is transferring this request to the FOIA Officer for U.S. Immigration and Customs Enforcement (ICE) for processing and direct response to you.”

The Intercept appeals because it is implausible that no responsive records were identified as the result of an adequate search. Although CBP does not provide an adequate administrative determination that would allow for a fulsome appeal, the inadequacy of the agency’s response is apparent. CBP’s response in a matter of a single business day to refer this request in its entirety without any indication that any search was conducted indicates that the agency conducted no search at all, much less an adequate one, for the requested records. CBP is an immigration enforcement agency part of the Department of Homeland Security (“DHS”), and this request sought DHS policies, directives, and field guides concerning immigration enforcement agencies’ engagement with the public. An automatic referral, without any search, to another DHS immigration agency is plainly an insufficient response under the FOIA. The agency is required to conduct a good faith search reasonably calculated to uncover all relevant documents. The agency’s response here is plainly inadequate.

We ask that CBP be required to conduct an adequate search for responsive records in its custody. We appreciate your assistance and look forward to your prompt response.

/s/ Daniel McGrath

Daniel McGrath
Senior Oversight Counsel
Democracy Forward Foundation

On behalf of The Intercept



U.S. Customs and
Border Protection

February 24, 2026

SENT VIA SECURERELEASE TO: foia@democracyforward.org

Skye Perryman
Democracy Forward Foundation
P.O. Box 34553
Washington, D.C. 20043

Re: CBP-FO-2026-065579

Dear Skye Perryman:

This letter acknowledges receipt of your Freedom of Information Act (FOIA) request to U.S. Customs and Border Protection (CBP) submitted February 23, 2026, in which you requested the following:

All records reflecting policies, memoranda, directives, field guides, training materials, standard operating procedures, or emailed instructions regarding the creation of a database or adding new entries to a database of people protesting, recording, or otherwise present near DHS immigration enforcement actions, including those deemed to be engaged in potential obstruction, "agitators," or "domestic terrorists."

All records reflecting policies, memoranda, directives, field guides, training materials, standard operating procedures, or emailed instructions regarding collecting information about people protesting, recording, or otherwise present near DHS immigration enforcement actions, including those deemed to be engaged in potential obstruction, "agitators," or "domestic terrorists." Responsive records should include, at a minimum, a copy of the memorandum sent by a DHS official in Minneapolis to ICE officers assigned to Minnesota in January 2026.

All records reflecting policies, memoranda, directives, field guides, training materials, standard operating procedures, or emailed instructions regarding how the photos and videos that DHS immigration enforcement officers take of people protesting, recording, or otherwise present near DHS immigration enforcement actions, including those deemed to be engaged in potential obstruction, "agitators," or "domestic terrorists," will be stored. A copy of the template form titled "intel collection non-arrests," or something similar.

This request seeks records from January 20, 2025, until the date of the search.

Due to the subject matter, CBP is transferring this request to the FOIA Officer for U.S. Immigration and Customs Enforcement (ICE) for processing and direct response to you.

Please see their contact information below:

United States Immigration & Customs Enforcement (ICE)

Submit a request to Immigration Customs Enforcement (ICE) by creating a [SecureRelease account](#).

Freedom of Information Act Office

500 12th Street, SW, Stop 5009

Washington, D.C. 20536-5009

Phone: 866-633-1182 | Fax: 202-732-4265 | E-mail: ice-foia@ice.dhs.gov

[ICE Website](#)

This completes the CBP response to your request. You may contact CBP's FOIA Public Liaison, Charlyse Hoskins, by sending an email via your SecureRelease account, mailing a letter to 1300 Pennsylvania Avenue, NW MS 1181, Washington DC, 20229 or by calling 202-325-0150. (If you need telecommunication relay service (TRS) assistance to communicate with the CBP FOIA Office and you are in the United States, please dial 711 to obtain TRS assistance and notify the Communications Assistant that you want to contact the CBP FOIA Office at the telephone number (202) 325-0150). The FOIA Public Liaison can assist in advising on the requirements for submitting a request, assist with narrowing the scope of a request, assist in reducing delays by advising the requester on the type of records to request, suggesting agency offices that may have responsive records and receive questions or concerns about the agency's FOIA process. Please note file number **CBP-FO-2026-065579** on any future correspondence to CBP related to this request.

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. §5.8. Please include as much information as possible to help us understand the grounds for your appeal. You should submit your appeal via your SecureRelease account. 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. Additional information can be found at the following link https://www.cbp.gov/sites/default/files/assets/documents/2019-Dec/definitions-exemptions-foia_0.pdf.

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 note that contacting the CBP FOIA Public Liaison or OGIS does not stop the 90-day appeal clock and is not a substitute for filing an administrative appeal.

Sincerely,

FOIA Division
U.S. Customs and Border Protection

February 23, 2026

VIA Electronic Delivery

U.S. Customs and Border Protection
Freedom of Information Act Office
1300 Pennsylvania Avenue NW, Mail Stop 1181
Washington, DC 20229-1181

Re: Freedom of Information Action Request

Dear FOIA Officer:

Pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. §§ 552, The Intercept submits this request for records.

Introduction

Sweeping immigration enforcement actions performed by the Department of Homeland Security (“DHS”) and its component agencies, including Immigration and Customs Enforcement (“ICE”) and Customs and Border Protection (“CBP”), in recent months have led to a countermovement of civilians protesting and recording immigration enforcement actions in cities and towns across the United States.

Public reporting and social media posts have suggested increasing surveillance of such protestors by DHS and its component agencies during and following these encounters. A video posted to X (formerly known as Twitter) on January 23, 2026, depicts federal agents recording a protester, saying that they were recording her “because we have a nice little database, and now you’re considered a domestic terrorist.”¹ In a court hearing regarding immigration enforcement actions in Minnesota, attorneys for the state of Minnesota reportedly included an exhibit of a recording of a federal agent saying, “Well, this person is gonna have a hard time traveling from now on’ after taking a photo of an ICE observer’s license plate.”² The press has reported that “A memo sent earlier this month to agents temporarily assigned to the city asked them to ‘capture all images, license plates, identifications, and general information on hotels, agitators, protestors, etc., so we can capture it all in one consolidated form.”³ In a second court case, a civilian observing ICE submitted a declaration stating that their TSA PreCheck and Global Entry were revoked three days after an encounter with immigration enforcement officials.⁴

¹ Brian Allen (@allenanalysis), X (Jan. 23, 2026, 10:46 AM), <https://x.com/allenanalysis/status/2014726554622816585>.

² Mueller, She Wrote (@muellershewrote.com), Bluesky (Jan. 26, 2026, 10:25 AM), <https://bsky.app/profile/muellershewrote.com/post/3mddkipp3nk2m>.

³ Jeff Winter & Priscilla Alvarez, *Alex Pretti broke rib in confrontation with federal agents a week before death, sources say*, CNN (updated Jan. 27, 2026), <https://www.cnn.com/2026/01/27/us/alex-pretti-protesters-minneapolis-invs>.

⁴ *Tincher v. Noem*, 0:25-cv-04669, (D. Minnesota Jan. 21, 2026) ECF No. 98, at 3 <https://www.courtlistener.com/docket/72047643/98/tincher-v-noem>.

At the same time, DHS—and the administration more broadly—have broadened the definition of “domestic terrorists” to include supporters of humane immigration policies (which the agency describes as people holding “extreme views in favor of mass migration and open borders”⁵) and supporters of transgender rights (described by the agency as people adhering to “radical gender ideology”⁶), among other characteristics. Indeed, at least one prominent supporter of transgender rights has reportedly had her Global Entry and U.S. passport cancelled in the past two months.⁷ All of these public reports suggest that the federal government is attempting to change the travel and privacy rights of civilian protestors.

Records Requested

The Intercept requests that your agency produce the following within twenty (20) business days:

1. All records reflecting policies, memoranda, directives, field guides, training materials, standard operating procedures, or emailed instructions regarding the creation of a database or adding new entries to a database of people protesting, recording, or otherwise present near DHS immigration enforcement actions, including those deemed to be engaged in potential obstruction, “agitators,” or “domestic terrorists.”
2. All records reflecting policies, memoranda, directives, field guides, training materials, standard operating procedures, or emailed instructions regarding collecting information about people protesting, recording, or otherwise present near DHS immigration enforcement actions, including those deemed to be engaged in potential obstruction, “agitators,” or “domestic terrorists.” Responsive records should include, at a minimum, a copy of the memorandum sent by a DHS official in Minneapolis to ICE officers assigned to Minnesota in January 2026.⁸
3. All records reflecting policies, memoranda, directives, field guides, training materials, standard operating procedures, or emailed instructions regarding how the photos and videos that DHS immigration enforcement officers take of people protesting, recording, or otherwise present near DHS immigration enforcement actions, including those deemed to be engaged in potential obstruction, “agitators,” or “domestic terrorists,” will be stored.
4. A copy of the template form titled “intel collection non-arrests,” or something similar.⁹

⁵ Office of the Attorney General, Implementing National Security Presidential Memorandum-7: Countering Domestic Terrorism and Organized Political Violence (Dec. 4, 2025), <https://www.washingtonpost.com/documents/b610d753-733b-4eee-8a17-5035bc94cd6c.pdf>.

⁶ *Id.*

⁷ Suzanne Blake, *Woman Says Identity ‘Wiped’ From Passport System, Got ‘Unusual’ Message*, Newsweek (last updated Jan. 13, 2026), <https://www.newsweek.com/woman-says-identity-wiped-from-passport-system-11348471>.

⁸ *See* 3.

⁹ *See* 3.

This request seeks records from January 20, 2025 until the date of the search.

Scope of Search

FOIA requires agencies to disclose information, with only limited exceptions for information that would harm an interest protected by a specific exemption or where disclosure is prohibited by law. 5 U.S.C. § 552(a)(8)(A). In the event that any of the requested documents cannot be disclosed in their entirety, we request that you release any material that can be reasonably segregated. *See* 5 U.S.C. § 552(b). Should any documents or portions of documents be withheld, we further request that you state with specificity the description of the document to be withheld and the legal and factual grounds for withholding any documents or portions thereof in an index, as required by *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973). Should any document include both disclosable and non-disclosable material that cannot reasonably be segregated, we request that you describe what proportion of the information in a document is non-disclosable and how that information is dispersed throughout the document. *Mead Data Cent., Inc. v. U.S. Dep't of Air Force*, 566 F.2d 242, 261 (D.C. Cir. 1977).

If requested records are located in, or originated in, another agency, department, office, installation or bureau, please refer this request or any relevant portion of this request to the appropriate entity.

To the extent that the records are readily reproducible in an electronic format, we would prefer to receive the records in that format. However, if certain records are not available in that format, we are willing to accept the best available copy of each such record.

Please respond to this request in writing within 20 working days as required under 5 U.S.C. § 552(a)(6)(A)(i). If all of the requested documents are not available within that time period, we request that you provide us with all requested documents or portions of documents that are available within that time period. If all relevant records are not produced within that time period, we are entitled to a waiver of fees for searching and duplicating records under 5 U.S.C. § 552(a)(4)(A)(viii)(I).

Fee Categorization

For fee categorization purposes, The Intercept is an award-winning national online news organization that covers politics, immigration, national security, and law enforcement issues in the United States, and has a long track record of disseminating information of public importance. Sam Biddle is the reporter assigned to this story. He is a technology reporter focusing on issues of surveillance, privacy, and corporate power, and he has regularly published critical news

articles shedding light on government misconduct and surveillance issues.¹⁰ Accordingly, The Intercept is only required to pay for the direct cost of duplication after the first 100 pages. 5 U.S.C. § 552(a)(4)(A)(ii)(II); id. 552(a)(4)(A)(iv)(II)

Request for Fee Waiver

Please waive any applicable fees. Release of the information is not in The Intercept's commercial interest and will contribute significantly to public understanding of government operations and activities. 5 U.S.C. § 552(a)(4)(A)(iii). Release of this information is of urgent public importance because it will significantly contribute to the public understanding of government operations and activities related to ongoing mass deportation efforts and surveillance of immigrants and potentially U.S. citizens.

Conclusion

If this request is denied in whole or part, please justify all withholdings by reference to specific exemptions and statutes, as applicable. For each withholding please also explain why your agency "reasonably foresees that disclosure would harm an interest protected by an exemption or why "disclosure is prohibited by law[.]" 5 U.S.C. § 552(a)(8)(A)(i).

If you need clarification as to the scope of the request, have any questions, or foresee any obstacles to releasing fully the requested records within 20 business days, please contact me as soon as possible at foia@democracyforward.org.

We appreciate your assistance and look forward to your prompt response.

Sincerely,

/s/ David Bralow

¹⁰ Sam Biddle, *Blackwater Successor Hunts Immigrants for ICE*, The Intercept (Jan. 3, 2026), <https://theintercept.com/2026/01/03/blackwater-successor-constellis-omniplx-hunts-immigrants-for-ice/>; Sam Biddle, *10 Companies Have Already Made \$1 Million as ICE Bounty Hunters. We Found Them.*, The Intercept (Dec. 23, 2025), <https://theintercept.com/2025/12/23/ice-bounty-hunters-track-immigrant-surveillance/>; Sam Biddle, *ICE Hires Immigrant Bounty Hunters from Private Prison Company Geo Group*, The Intercept (Dec. 19, 2025), <https://theintercept.com/2025/12/19/ice-bounty-hunters-location-surveillance-geo-group/>; Sam Biddle, *Lawmaker Challenges ICE Plan to Hire Bounty Hunters*, The Intercept (Nov. 10, 2025), <https://theintercept.com/2025/11/10/ice-bounty-hunters-immigrants/>; Sam Biddle, *ICE Investigations, Powered by Nvidia*, The Intercept (Nov. 1, 2025), <https://theintercept.com/2025/11/01/ice-nvidia-software-hsi-surveillance/>; Sam Biddle, *ICE Plans Cash Rewards for Private Bounty Hunters to Locate and Track Immigrants*, The Intercept (Oct. 31, 2025), <https://theintercept.com/2025/10/31/ice-plans-cash-rewards-for-private-bounty-hunters-to-locate-and-track-immigrants/>; Sam Biddle, *Border Patrol Wants Advanced AI to Spy on American Cities*, The Intercept (July 23, 2025), <https://theintercept.com/2025/07/23/cbp-border-patrol-ai-surveillance/>; Sam Biddle, *U.S. Spy Agencies are Getting a One-Stop Shop to Buy Your Most Sensitive Personal Data*, The Intercept (May 22, 2025), <https://theintercept.com/2025/05/22/intel-agencies-buying-data-portal-privacy/>; Sam Biddle, *No-Bid ICE Contract Went to Former ICE Agents Sued for Fabricating Criminal Evidence on the Job*, The Intercept (Apr. 17, 2025), <https://theintercept.com/2025/04/17/ice-deportation-contracts-us-advisors/>; Sam Biddle, *Google is Helping the Trump Administration Deploy AI Along the Mexican Border*, The Intercept (Apr. 3, 2025), <https://theintercept.com/2025/04/03/google-cbp-ai-border-surveillance-ibm-equitus/>; Sam Biddle, *ICE Wants to Know if You're Posting Negative Things About it Online*, The Intercept (Feb. 11, 2025), <https://theintercept.com/2025/02/11/ice-immigration-social-media-surveillance/>.

David Bralow
The Intercept