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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

HARVARD IMMIGRATION AND REFUGEE
CLINICAL PROGRAM,
6 Everett Street, Suite 3103 (WCC),
Cambridge, MA 02138

Plaintiff,

v.

UNITED STATES CUSTOMS AND BORDER
PROTECTION,
1300 Pennsylvania Ave. NW,
Washington, DC 20229

Defendant.

Docket No.

**COMPLAINT FOR INJUNCTIVE
RELIEF**

INTRODUCTION

1. Plaintiff Harvard Immigration and Refugee Clinical Program (“The Program” or “Plaintiff”), by and through its undersigned attorneys, brings this action against Defendant United States Customs and Border Protection (“CBP” or “Defendant”) as follows:

2. This is an action under the Freedom of Information Act, 5 U.S.C. § 552 *et seq.* (“FOIA”), for injunctive and other relief to compel the disclosure and release of documents to the Plaintiff. The documents in questions relate to the FOIA request submitted to CBP on May 29 of 2020.
3. The Program’s FOIA request seeks to educate the public, including legal services providers and hundreds of valid visas holders, on how to respond to unlawful denials of entry and detention at various ports of entry.
4. Over the past five years, CBP has repeatedly denied entry to individuals from the Middle East, especially Iran, who arrive at ports of entry with valid visas and/or other required documentation. These individuals include students and scholars turned away by CBP at Boston’s Logan Airport and other ports of entry.¹
5. FOIA, 5 U.S.C. § 552, mandates disclosure of records held by a federal agency, in response to a request for such records by a member of the public, unless records fall within certain narrow statutory exemptions—none of which CBP has claimed.
6. As the Supreme Court has recognized, “the basic purpose of [FOIA] is ‘to open agency action to the light of public scrutiny.’” *Dep’t of Air Force v. Rose*, 425 U.S. 352, 372 (1976). Such scrutiny improves the public’s understanding of governmental operations and, thus, enables a vibrant and functioning democracy.
7. The Program submitted its FOIA Request to CBP to educate the public about the federal government’s policies and instructions regarding denial of entry, visa revocations, expedited removal, electronic device searches, and social media data collection for certain visa holders, including international students and scholars.

¹ FOIA litigation has revealed the existence of an unlawful directive in a similar context, based on which CBP detained hundreds of Iranians for hours at a port of entry, regardless of their lawful status. *See* Press Release, *Emails Show CBP Detained Hundreds of Iranians for Hours Pursuant to Unlawful Directive*, Nov. 17, 2020, <https://www.nwirp.org/emails-show-cbp-detained-hundreds-of-iranians-for-hours-pursuant-to-unlawful-directive/>.

8. Yet, despite CBP's statutory obligation to respond to a FOIA request within 20 days, and the directive on remand from the Appeals Office, CBP has failed to conduct a reasonable search and respond to the Program's FOIA request in its entirety.
9. Accordingly, the Program seeks to compel Defendant to comply with its obligations under FOIA and produce the relevant documents.

THE PARTIES

10. Plaintiff, the Harvard Immigration and Refugee Clinical Program, is a clinical program at Harvard Law School, with its principal place of business in Cambridge, Massachusetts. The Program engages in direct representation of individuals applying for immigration relief and seeking release from immigration detention. The Program also engages in district court and appellate litigation and policy advocacy on behalf of immigrants.
11. Defendant CBP is a federal law enforcement agency under the Department of Homeland Security ("DHS") that is charged with regulating and facilitating international trade, collecting import duties, and enforcing U.S. regulations, including trade, customs, and immigration. CBP is headquartered at 1300 Pennsylvania Avenue, NW, Washington, D.C. 20229, and in Massachusetts at 10 Causeway Street, Room 801, Boston, Massachusetts 02222.

JURISDICTION AND VENUE

12. This Court has jurisdiction over this action pursuant to 5 U.S.C. §§ 552(a)(4)(B) and 28 U.S.C. § 1331.
13. Venue is appropriate in the District of Massachusetts pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1391(e), because it is the district in which the Program has its principal place of business and because CBP is an agency acting in its official capacity.

14. After the administrative appeal, the Program has exhausted all required administrative remedies and is entitled to proceed with this judicial action pursuant to 5 U.S.C. § 552(a)(6)(C)(i).

FACTS

Background

15. Over the past two years, CBP has denied multiple students and scholars from countries in the Middle East, especially Iran, entry to the United States, despite their arrival at ports of entry with valid visas and/or other required documentation. Since August 2019, for example, CBP has sent at least 10 Iranian students with valid F-1 visas back to Iran. Over seven of those students traveled through Boston's Logan Airport.²

16. Some of these individuals allege serious infractions by CBP, including several complaints about an individual officer.³

17. One Iranian student, for example, was admitted to the Master of Theological Studies Program at the Harvard Divinity School for the 2019-2020 academic year. The U.S. State Department issued her a student visa on September 11, 2019, after months of administrative processing.⁴ But upon arrival at Boston Logan Airport on September 18, 2019, CBP subjected her to over eight hours of intensive questioning and ultimately refused to admit her.⁵ Instead, CBP issued an expedited removal order, which renders her inadmissible to the United States for five years.⁶

² Caleb Hampton, *'Treated like a terrorist': US deports growing number of Iranian students with valid visas from US airports*, The Guardian (Jan. 14, 2020), <https://www.theguardian.com/us-news/2020/jan/14/they-treated-me-like-a-terrorist-the-vetted-iranians-blocked-from-the-us>.

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

18. Another case of an Iranian student with a valid visa sent back to Iran by CBP involves Shahab Dehghani. Mr. Dehghani, who arrived at Boston Logan Airport on January 19, 2020, was enrolled to study at Northeastern University.⁷
19. CBP officials detained him and questioned him for hours before revoking his student visa, which the State Department granted him after a year of vetting.⁸ Despite a judge's order that Mr. Dehghani remain in the United States for a hearing, CBP removed Mr. Dehghani.⁹
20. More recently, in April 2021, CBP turned away a Canadian citizen, born in Iran, at the U.S.-Canada border, despite valid documentation allowing her to enter the United States so she could pursue a two-year fellowship at Harvard. She was accompanied by her husband, who is also an Iranian-born Canadian citizen, and their two young Canadian citizen children, all of whom also had the documentation required to enter the United States. CBP detained and questioned them for hours and issued her husband an expedited removal order, rendering him inadmissible to the United States for five years.

Plaintiff's FOIA Request and Defendant's Response

21. On May 29, 2020, Plaintiff submitted a FOIA request to Defendant CBP. (*See* Exhibit 1). Plaintiffs sought the following documents from the period beginning January 1, 2012 to present regarding the expedited removal or withdrawal of admission of persons presenting F-1 visas ("F-1 visa holders") at all U.S. ports of entry:

- I. Records regarding the expedited removal of persons who have presented an F-1 visa at a port of entry (each such instance, an "F-1 Expedited Removal"), including:
 - a. The total number of F-1 Expedited Removals at each port of entry, including Boston Logan Airport
 - b. The total number of F-1 Expedited Removals where the statutory basis given for the removal was INA § 212(a)(7) or a subparagraph of § 212(a)(7)

⁷ Caleb Hampton, "Treated like a terrorist": US deports growing number of Iranian students with valid visas from US airports, *The Guardian* (Jan. 14, 2020), <https://www.theguardian.com/us-news/2020/jan/14/they-treated-me-like-a-terrorist-the-vetted-iranians-blocked-from-the-us>.

⁸ *Id.*

⁹ *Id.*

- c. The total number of F-1 Expedited Removals in which the recorded reason for the removal was that the entrant could not overcome the presumption of immigrant intent
 - d. The total number of instances where CBP initiated expedited removal proceedings against an F-1 visa holder, and the F-1 visa holder was granted admission into the United States
 - e. The total number of F-1 Expedited Removals where the F-1 visa holders were questioned by or interacted with an ICE agent
 - f. The total number of F-1 Expedited Removals where the F-1 visa holders were questioned by or interacted with an FBI agent
 - g. The total number of F-1 Expedited Removals where the F-1 visa holders' electronic devices were searched at the port of entry
 - h. The total number of F-1 Expedited Removals where CBP sought the F-1 visa holders' social media identifiers
 - i. All CBP records for each F-1 Expedited Removal at Boston Logan Airport between January 1, 2012 and the present date, including records disclosing:
 - i. Date of decision of the expedited removal
 - ii. National origin of the F-1 visa holder
 - iii. Statute under which the F-1 visa holder was found to be inadmissible
 - iv. Arrival time of the F-1 visa holder's flight
 - v. Duration of time the F-1 visa holder spent in secondary screening
 - vi. Whether an ICE agent questioned the F-1 visa holder
 - vii. Whether an FBI agent questioned the F-1 visa holder
 - viii. Number of times the F-1 visa holder requested access to counsel
 - ix. Whether the F-1 visa holder was granted access to counsel
 - x. Whether the F-1 visa holder was denied access to counsel
 - xi. Whether the F-1 visa holder's electronic devices were searched
 - xii. Whether the F-1 visa holder's social media identifiers were sought
 - xiii. Name of the CBP officer who initiated the expedited removal proceedings
 - xiv. Name of the CBP shift supervisor at the time when the expedited removal proceedings were initiated
- II. Records regarding the withdrawal of admission of F-1 visa holders at a port of entry (each such instance, an "F-1 Withdrawal of Entry") including:
- a. The total number of F-1 Withdrawals of Entry at each port of entry, including Boston Logan Airport

- b. The total number of F-1 Withdrawals of Entry where the F-1 visa holders were questioned by or interacted with an ICE agent
 - c. The total number of F-1 Withdrawals of Entry where the F-1 visa holders were questioned by or interacted with an FBI agent
 - d. The total number of F-1 Withdrawals of Entry where the F-1 visa holders' electronic devices were searched at the port of entry
 - e. The total number of F-1 Withdrawals of Entry where CBP sought the F-1 visa holders' social media identifiers
 - f. All CBP records for each F-1 Withdrawal of Entry at Boston Logan Airport between January 1, 2012 and the present date, including:
 - i. Date the withdrawal of admission was made
 - ii. National origin of the F-1 visa holder
 - iii. Arrival time of the F-1 visa holder's flight
 - iv. Duration of time the F-1 visa holder spent in secondary screening
 - v. Whether an ICE agent questioned the F-1 visa holder
 - vi. Whether an FBI agent questioned the F-1 visa holder
 - vii. Number of times the F-1 visa holder requested access to counsel
 - viii. Whether the F-1 visa holder was granted access to counsel
 - ix. Whether the F-1 visa holder was denied access to counsel
 - x. Whether the F-1 visa holder's electronic devices were searched
 - xi. Whether the F-1 visa holder's social media identifiers were sought
 - xii. Name of the CBP officer who authorized the withdrawal of admission
 - xiii. Name of the CBP shift supervisor at the time when the withdrawal of admission occurred
- III. All directives, orders, training materials, memoranda, guidance, briefings, instructions, policies, procedures, rules, regulations, e-mail, other electronic communications and/or any other communications, whether issued verbally or in writing, regarding the following:
- a. CBP officials' assessment of the admissibility of F-1 visa holders at ports of entry, including whether to deny entry to F-1 visa holders, revoke the visas of F-1 visa holders, initiate expedited removal proceedings against F-1 visa holders, and request withdrawals of admission from F-1 visa holders
 - b. Any review by the Department of Homeland Security Office of Inspector General ("OIG") or any other independent

agency of ports of entry in which CBP officials have denied entry to visa holders, revoked visas of visa holders, issued expedited removal orders, and/or requested withdrawals of admission from visa holders

- c. Any review by the OIG or any other independent agency of CBP officials' use and application of INA § 212(a)(7)
- d. Any guidance to CBP officials related to the OIG report published in January 2018 detailing CBP's failure to fully comply with court orders to enjoin implementation of Executive Order 13769 of January 27, 2017
- e. Any guidance to CBP officials related to enhanced vetting of individuals from countries included in Executive Order 13780 of March 6, 2017, Presidential Proclamation 9645 of September 24, 2017, and Presidential Proclamation 9983 of January 31, 2020
- f. Any guidance to CBP officials related to the formation, development, and/or implementation of Tactical Terrorism Response Teams
- g. Any guidance regarding ICE's involvement with CBP in denying entry to visa holders, revoking visas of visa holders, issuing expedited removal orders, and/or requesting withdrawal of admission from visa holders.

22. On June 4, 2020, CBP responded to this request, asserting that CBP was "granting [the Program's] request." The response indicated that the records were "approved for release in their entirety, no deletions or exemptions [having] been applied." (*See* Exhibit 2).

23. However, the records provided by CBP were incomplete in many respects, including the requested time period and geographic scope. The six pages provided only included some ports of entry and only information from January to May of FY 2020. Moreover, CBP's production included only the date, type of visa, port of entry, and disposition type (i.e. expedited removal or withdrawal) – missing much of the detail requested. (Exhibit 3).

24. The response did not include any information regarding the number of F-1 visa holders questioned by ICE or the FBI or subjected to searches of their electronic devices. The response did not indicate how many F-1 visa holders' social media identifiers CBP sought. The response did not indicate how many individuals were granted or denied access to counsel. The response did not include the national origin of the F-1 visa holders subjected to denial of entry, revocation of visa or expedited removal. Nor did the response include

the names of the CBP officers or shift supervisors on duty during either the withdrawal of admission or the expedited removal.

25. Although explicitly requested, the six pages produced by CBP did not contain any directives, orders, training materials, memoranda, guidance, briefings, instructions, policies, procedures, rules, regulations, e-mail, other electronic communications or any other communications regarding CBP officials' assessment of the admissibility of F-1 visa holders at ports of entry.
26. The produced documents did not contain information regarding reviews by the Department of Homeland Security Office of Inspector General ("OIG") or any other independent agency of ports of entry in which CBP officials have denied entry to visa holders; review by the OIG or any other independent agency of CBP officials' use and application of INA § 212(a)(7); guidance to CBP officials related to the OIG report published in January 2018 detailing CBP's failure to fully comply with court orders to enjoin implementation of Executive Order 13769 of January 27, 2017; and guidance to CBP officials related to enhanced vetting of individuals from countries included in Executive Order 13780 of March 6, 2017, Presidential Proclamation 9645 of September 24, 2017, and Presidential Proclamation 9983 of January 31, 2020.
27. The produced documents did not include any guidance to CBP officials related to the formation, development, and/or implementation of Tactical Terrorism Response Teams; or guidance regarding ICE's involvement with CBP in denying entry to visa holders, revoking visas of visa holders, issuing expedited removal orders, and/or requesting withdrawal of admission from visa holders.

Plaintiff's Administrative Appeal

28. On July 23, 2020, the Program appealed CBP's response as improper and insufficient to CBP's Policy and Litigation Branch, FOIA Appeals.

29. In the Administrative Appeal, the Program requested that CBP “conduct an adequate search for responsive records and produce all non-exempt portions of those records as soon as possible.” (*See* Exhibit 4).
30. On September 30, 2020, CBP’s Policy and Litigation Branch, FOIA Appeals, responded to the Program’s administrative appeal.
31. The response indicated that, “while initial searches were begun, the searches were not completed prior to the closure of your August 2020 initial FOIA request.” Consequently, the CBP’s Policy and Litigation Branch remanded the Program’s FOIA request back to CBP’s FOIA Division “with instructions that the FOIA Division should reopen the case” and keep the Program “apprised of its progress within twenty (20) days from the date of this letter.” (*See* Exhibit 5).
32. To date, CBP’s FOIA Division has not only failed to produce the requested documents in “their entirety,” as CBP’s response to the Program’s initial FOIA request indicated that the agency would, but CBP has also failed to “apprise” the Program of its process within twenty days of the remand from the appeal.
33. CBP’s production remains incomplete and does not encompass all responsive documents in CBP’s custody or control that are subject to the FOIA. Upon information and belief, CBP possesses documents responsive to the Program’s original request that they have yet to produce.
34. CBP failed to “make reasonable efforts to search” for records, as evidenced by its decision to transfer the Program’s FOIA Request. 5 U.S.C. § 552(a)(3)(C).
35. CBP failed to acknowledge the remand order from the Policy and Litigation Branch, instructing it to produce the requested documents.

Failure to Provide Fee Waiver

36. The Program's FOIA request also sought a fee waiver of all costs incurred by CBP in answering the request because the information sought is "likely to contribute significantly to public understanding of the operations or activities of the government and [was] not primarily in the [Plaintiff's] commercial interest." 5 U.S.C. § 552(a)(4)(A)(iii). (*See* Exhibit 1).
37. As the Program's request explained, "[o]ne primary goal of [the Program] is to disseminate information about and make the public aware of discriminatory immigration policies, including CBP policies that unfairly target F-1 visa holders and other immigrants from Middle Eastern countries. The Program also represents F-1 visa holders who have been wrongly denied entry in the United States by CBP." *Id.*
38. In response to the Program's request for a fee waiver, CBP stated that the fee waiver request "has been determined to be not applicable as the request is not billable." (*See* Exhibit 6).
39. However, CBP made that determination as part of its insufficient and improper response.
40. Therefore, to the extent a fee is applicable to the Program's FOIA request, a fee waiver should be granted. *See* 5 U.S.C. § 552(a)(4)(A)(iii) (fees "shall" be waived if criteria are met); *see also* 6 C.F.R. § 5.11(k)(1) (fees "shall" be waived when "[d]isclosure of the requested information is in the public interest . . . and [d]isclosure of the information is not primarily in the commercial interest of the requester").

CAUSES OF ACTION

FIRST CAUSE OF ACTION

Violation of 5 U.S.C. § 552(a)(3) For Failure To Conduct An Adequate Search For Responsive Records

41. The Program repeats, re-alleges, and incorporates the allegations in the foregoing paragraphs as though fully set forth herein.

42. Pursuant to FOIA, 5 U.S.C. § 552(a), the Program has a statutory right to access requested agency records.
43. Pursuant to FOIA, 5 U.S.C. § 552(a)(3)(C), Defendant must “make reasonable efforts to search” for the information requested.
44. Upon information and belief, Defendant possesses records responsive to the Program’s FOIA Request and the remand resulting from the Program’s administrative appeal that CBP has failed to produce without a legal basis for withholding such records, in violation of FOIA, including but not limited to 5 U.S.C. §§ 552(a)(3)(A) and 6(A).
45. Defendant failed to make reasonable efforts to search for records responsive to the Request, in violation of Plaintiff’s rights under FOIA, including but not limited to 5 U.S.C. § 552(a)(3).
46. Plaintiff asks that this Court “enjoin the agency from withholding agency records” and “order the[ir] production,” given that the agency’s improper withholding of records. *See* 5 U.S.C. § 552(a)(4)(B).

SECOND CAUSE OF ACTION

Violation of 5 U.S.C. § 552(a)(4)(A)(iii) For Failure To Grant Waiver of Fees

47. The Program incorporates each of the foregoing paragraphs of this Complaint.
48. For the CBP FOIA Request, the Program requested a fee waiver under 5 U.S.C. § 552(a)(4)(A)(iii) on the grounds that the disclosure is “likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the [Requestors’] commercial interest.”
49. To date, CBP has not granted the Program a fee waiver in this case.
50. CBP’s failure to grant the Program a waiver of fees associated with the production of responsive documents violates 5 U.S.C. § 552(a)(4)(A)(iii).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, the Harvard Immigration and Refugee Clinical Program, respectfully requests that this Court enter judgment for the Program and award the following relief:

51. Injunctive relief, ordering CBP to respond to the Program's FOIA Request, by a date certain, by (a) conducting a search using "reasonable effort[s]" "for the purpose of locating those records which are responsive" to the Program's FOIA Request, as required by 5 U.S.C. §§ 552(a)(3)(C)-(D); (b) demonstrating that they have conducted an adequate search; (c) producing to [the Program] all non-exempt records or portions of records responsive to the Program's FOIA Request, as well as a Vaughn index of any records or portions of records withheld due to a claim of exemption; and (d) precluding CBP from withholding the requested records;
52. Retain jurisdiction of this action to ensure no agency records are wrongfully withheld, and order CBP to disclose any wrongfully withheld records;
53. Order CBP to grant the Program a waiver for fees associated with the production of the requested records;
54. Award the Program its costs and attorney fees reasonably incurred in this action, pursuant to 5 U.S.C. § 552(a)(4)(E); and
55. Grant the Program such other and further relief as the Court may deem just and proper.

Dated: February 23, 2022

Respectfully submitted,

By: /s/ Sabrineh Ardalan
Sabrineh Ardalan (BBO #706806)
Sameer Ahmed (BBO #688952)
George Biashvili, Law Student

HARVARD IMMIGRATION AND
REFUGEE CLINICAL PROGRAM,
HARVARD LAW SCHOOL

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EXHIBIT 1

HARVARD LAW SCHOOL

CAMBRIDGE · MASSACHUSETTS · 02138

HARVARD IMMIGRATION AND
REFUGEE CLINIC
Harvard Law School

Location: 6 Everett St., Suite 3103
E-mail Address: hirc@law.harvard.edu
Phone: 617-384-8165

May 29, 2020

SENT VIA EMAIL (CBP-FOIA@dhs.gov)

U.S. Customs and Border Protection
90 K Street, NE
FOIA Division
Washington, DC 20229

To Whom It May Concern:

This is a request for records made pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552 et seq., and the relevant implementing regulations, *see* 6 C.F.R. § 5 (Department of Homeland Security, Disclosure of Records and Information). The Request is submitted by the Harvard Immigration and Refugee Clinical Program (“HIRC”), Clinical Professor of Law Sabi Ardlan, Clinical Instructor Sameer Ahmed, and Staff Attorney Jason Corral (“Requestors”). Requestors seek the disclosure of records related to individuals with F-1 student visas denied entry and/or deemed inadmissible by Customs and Border Protection (“CBP”) at ports of entry, as well as policies regarding denial of entry, visa revocations, expedited removal, electronic device searches and social media data collection for visa holders.

Background

Over the past year, CBP has denied multiple students from countries in the Middle East entry to the United States, despite their arrival at ports of entry with valid F-1 student visas. Since August 2019, for example, CBP has sent at least 10 Iranian students with valid F-1 visas back to Iran, with over seven of those students travelling through Boston’s Logan Airport.¹ Some

¹ Caleb Hampton, ‘Treated like a terrorist’: US deports growing number of Iranian students with valid visas from US airports, The Guardian (Jan. 14, 2020), <https://www.theguardian.com/us-news/2020/jan/14/they-treated-me-like-a-terrorist-the-vetted-iranians-blocked-from-the-us>.

of the students allege serious infractions by CBP, including several complaints about an individual officer.²

One Iranian student, Reihana Emami Arandi, for example, was admitted to the Master of Theological Studies Program at the Harvard Divinity School for the 2019-2020 academic year.³ The U.S. State Department issued her a student visa on September 11, 2019, after months of administrative processing.⁴ But upon arrival at Boston Logan Airport on September 18, 2019, CBP subjected her to over eight hours of intensive questioning and ultimately refused to admit her.⁵ Instead, CBP issued an expedited removal order, which renders her inadmissible to the United States for five years.⁶

Another case of an Iranian student with a valid visa sent back to Iran by CBP involves Shahab Dehghani. Mr. Dehghani, who arrived at Boston Logan Airport on January 19, 2020, was enrolled to study at Northeastern University. CBP officials detained him and questioned him for hours before revoking his student visa, which the State Department granted him after a year of vetting.⁷ Despite a judge's order that Mr. Dehghani remain in the United States for a hearing, CBP removed Mr. Dehghani.⁸

Records Requested

As used herein, the term “records” includes all records or communications preserved in electronic or written form, including but not limited to: correspondence; documents; data; videotapes; audio tapes; emails; faxes; files; guidance; guidelines; evaluations; instructions; analysis; memoranda; agreements; notes; orders; policies; procedures; protocols; reports; rules; manuals; specifications; and studies.

As used herein, the term “expedited removal” is a process authorized by the Immigration and Nationality Act (INA) § 235(b)(1) that allows summary removal of certain noncitizens from the United States without a hearing before an immigration judge.⁹ Although expedited removal may be applied to individuals who are deemed inadmissible under INA § 212(a)(6)(C) or § 212(a)(7), CBP must inform individuals potentially subject to expedited removal of their rights and refer those with a fear of return to their countries of origin to asylum officers within U.S. Citizenship and Immigration Services for credible fear interviews.¹⁰

²*Id.*

³ Attorneys from HIRC submitted a complaint and amended complaint in the federal district court for the District of Massachusetts as well as a complaint with the Office of Civil Rights and Civil Liberties of the Department of Homeland Security (DHS) on behalf of Ms. Arandi. *See* Complaint, U.S. Department of Homeland Security's Office for Civil Rights and Civil Liberties (Jan. 30, 2020), <http://harvardimmigrationclinic.org/files/2020/02/Reihana-DHS-Complaint-1.30.20.pdf-REDACTED.pdf>.

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ Caleb Hampton, ‘Treated like a terrorist’: US deports growing number of Iranian students with valid visas from US airports, *The Guardian* (Jan. 14, 2020), <https://www.theguardian.com/us-news/2020/jan/14/they-treated-me-like-a-terrorist-the-vetted-iranians-blocked-from-the-us>.

⁸ *Id.*

⁹ *A Primer on Expedited Removal*, American Immigration Council (July 22, 2019), <https://www.americanimmigrationcouncil.org/research/primer-expedited-removal>.

¹⁰ *Expansion of Expedited Removal FAQs*, Catholic Legal Immigration Network, <https://cliniclegal.org/resources/border-issues/expedited-removal/expansion-expedited-removal-faqs>.

As used herein, the term “revocation” refers to an immigration officer revoking a valid visa, which occurs when the officer physically cancels it, including by writing or stamping the word “Revoked” plainly across the face of the visa.¹¹

As used herein, the term “withdrawal of admission” refers to withdrawal at the port of entry whereby, “[a]n alien applying for admission may, in the discretion of the Department of Homeland Security and at any time, be permitted to withdraw the application for admission and depart immediately from the United States.” INA § 235(a)(4).

Should any responsive record contain the personal identifying information of any third party, Requestors ask that the agencies redact that information. This Request seeks aggregate data and records relevant to CBP’s denial of entry, expedited removal, and revocation of visas for individuals with F-1 visas, not any personal or identifying information about any specific individual(s). However, to the extent available, please include data fields indicating individuals’ ethnicity, country of origin, race, English proficiency, religion, and/or other similar characteristics in disaggregated form.

For the period **beginning January 1, 2012 to the present**, Requestors seek disclosure of the following records in the custody or control of CBP regarding the expedited removal or withdrawal of admission of persons presenting F-1 visas (“F-1 visa holders”) at all U.S. ports of entry:

- I. Records regarding the expedited removal of persons who have presented an F-1 visa at a port of entry (each such instance, an “F-1 Expedited Removal”), including:
 - a. The total number of F-1 Expedited Removals at each port of entry, including Boston Logan Airport
 - b. The total number of F-1 Expedited Removals where the statutory basis given for the removal was INA § 212(a)(7) or a subparagraph of § 212(a)(7)
 - c. The total number of F-1 Expedited Removals in which the recorded reason for the removal was that the entrant could not overcome the presumption of immigrant intent
 - d. The total number of instances where CBP initiated expedited removal proceedings against an F-1 visa holder, and the F-1 visa holder was granted admission into the United States
 - e. The total number of F-1 Expedited Removals where the F-1 visa holders were questioned by or interacted with an ICE agent
 - f. The total number of F-1 Expedited Removals where the F-1 visa holders were questioned by or interacted with an FBI agent
 - g. The total number of F-1 Expedited Removals where the F-1 visa holders’ electronic devices were searched at the port of entry
 - h. The total number of F-1 Expedited Removals where CBP sought the F-1 visa holders’ social media identifiers
 - i. All CBP records for each F-1 Expedited Removal at Boston Logan Airport between January 1, 2012 and the present date, including records disclosing:
 - i. Date of decision of the expedited removal

¹¹ 22 C.F.R. § 41.122 (d); 22 C.F.R. § 41.122(e).

- ii. National origin of the F-1 visa holder
 - iii. Statute under which the F-1 visa holder was found to be inadmissible
 - iv. Arrival time of the F-1 visa holder's flight
 - v. Duration of time the F-1 visa holder spent in secondary screening
 - vi. Whether an ICE agent questioned the F-1 visa holder
 - vii. Whether an FBI agent questioned the F-1 visa holder
 - viii. Number of times the F-1 visa holder requested access to counsel
 - ix. Whether the F-1 visa holder was granted access to counsel
 - x. Whether the F-1 visa holder was denied access to counsel
 - xi. Whether the F-1 visa holder's electronic devices were searched
 - xii. Whether the F-1 visa holder's social media identifiers were sought
 - xiii. Name of the CBP officer who initiated the expedited removal proceedings
 - xiv. Name of the CBP shift supervisor at the time when the expedited removal proceedings were initiated
- II. Records regarding the withdrawal of admission of F-1 visa holders at a port of entry (each such instance, an "F-1 Withdrawal of Entry") including:
 - a. The total number of F-1 Withdrawals of Entry at each port of entry, including Boston Logan Airport
 - b. The total number of F-1 Withdrawals of Entry where the F-1 visa holders were questioned by or interacted with an ICE agent
 - c. The total number of F-1 Withdrawals of Entry where the F-1 visa holders were questioned by or interacted with an FBI agent
 - d. The total number of F-1 Withdrawals of Entry where the F-1 visa holders' electronic devices were searched at the port of entry
 - e. The total number of F-1 Withdrawals of Entry where CBP sought the F-1 visa holders' social media identifiers
 - f. All CBP records for each F-1 Withdrawal of Entry at Boston Logan Airport between January 1, 2012 and the present date, including:
 - i. Date the withdrawal of admission was made
 - ii. National origin of the F-1 visa holder
 - iii. Arrival time of the F-1 visa holder's flight
 - iv. Duration of time the F-1 visa holder spent in secondary screening
 - v. Whether an ICE agent questioned the F-1 visa holder
 - vi. Whether an FBI agent questioned the F-1 visa holder
 - vii. Number of times the F-1 visa holder requested access to counsel
 - viii. Whether the F-1 visa holder was granted access to counsel
 - ix. Whether the F-1 visa holder was denied access to counsel
 - x. Whether the F-1 visa holder's electronic devices were searched
 - xi. Whether the F-1 visa holder's social media identifiers were sought
 - xii. Name of the CBP officer to whom the withdrawal of admission was provided
 - xiii. Name of the CBP shift supervisor at the time when the withdrawal of admission occurred
- III. All directives, orders, training materials, memoranda, guidance, briefings, instructions, policies, procedures, rules, regulations, e-mail, other electronic

communications and/or any other communications, whether issued verbally or in writing, regarding the following:

- a. CBP officials' assessment of the admissibility of F-1 visa holders at ports of entry, including whether to deny entry to F-1 visa holders, revoke the visas of F-1 visa holders, initiate expedited removal proceedings against F-1 visa holders, and request withdrawals of admission from F-1 visa holders
- b. Any review by the Department of Homeland Security Office of Inspector General ("OIG") or any other independent agency of ports of entry in which CBP officials have denied entry to visa holders, revoked visas of visa holders, issued expedited removal orders, and/or requested withdrawals of admission from visa holders
- c. Any review by the OIG or any other independent agency of CBP officials' use and application of INA § 212(a)(7)
- d. Any guidance to CBP officials related to the OIG report published in January 2018 detailing CBP's failure to fully comply with court orders to enjoin implementation of Executive Order 13769 of January 27, 2017¹²
- e. Any guidance to CBP officials related to enhanced vetting of individuals from countries included in Executive Order 13780 of March 6, 2017, Presidential Proclamation 9645 of September 24, 2017, and Presidential Proclamation 9983 of January 31, 2020
- f. Any guidance to CBP officials related to the formation, development, and/or implementation of Tactical Terrorism Response Teams
- g. Any guidance regarding ICE's involvement with CBP in denying entry to visa holders, revoking visas of visa holders, issuing expedited removal orders, and/or requesting withdrawal of admission from visa holders

Expedited Processing Request

The D.C. Circuit in *Open America v. Watergate Special Prosecution Force* recognized that some FOIA requests involve a greater degree of urgency than others.¹³ Accordingly, where, as here, a requestor can show "exceptional need or urgency," that request should be processed on an expedited basis.¹⁴

The above request should be expedited because, as this request is being processed, F-1 visa holders continue to be wrongfully denied entry into the United States, have their visas revoked, and be placed into expedited removal proceedings. The F-1 visa holders who have been and will continue to be wrongfully denied entry, have their visas revoked, and be placed into expedited removal proceedings are significantly harmed by CBP's actions and their lives have been seriously disrupted.¹⁵ CBP has denied the F-1 visa holders the right to begin and continue

¹² DHS OIG, *DHS Implementation of Executive Order #13769 "Protecting the Nation From Foreign Terrorist Entry Into the United States,"* Department of Homeland Security, Jan. 27, 2017 (Jan. 2018), <https://www.oig.dhs.gov/sites/default/files/assets/2018-01/OIG-18-37-Jan18.pdf>.

¹³ *Open America v. Watergate Special Prosecution Force*, 547 F.2d 605, 616 (D.C. Cir. 1976).

¹⁴ *Id.*

¹⁵ See, e.g., Caleb Hampton, 'Treated like a terrorist': US deports growing number of Iranian students with valid visas from US airports, *The Guardian* (Jan. 14, 2020), <https://www.theguardian.com/us-news/2020/jan/14/they-treated-me-like-a-terrorist-the-vetted-iranians-blocked-from-the-us>; Complaint, U.S. Department of Homeland

their education in the United States, despite being issued valid F-1 visas by the U.S. Department of State.¹⁶ This request will shed light on CBP's actions in the hopes that these F-1 visa holders may soon begin and continue their education in the United States. Therefore, this request requires immediate attention. Furthermore, the information requested in this FOIA request cannot be obtained elsewhere, as it is only in the custody and control of CBP.

Fee Waiver Request

Requestors are entitled to a waiver or reduction of all fees and costs because the information sought "is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the [Requestors'] commercial interest." 5 U.S.C. § 552(a)(4)(A)(iii); 6 C.F.R. § 5.11(k) (records must be furnished without charge if the information is in the public interest, and disclosure is not in the commercial interest of the institution); 6 C.F.R. § 5.11(d).

Requestors are members of the Harvard Immigration and Refugee Clinical Program (HIRC), an academic program focused on direct representation of individuals applying for U.S. asylum and related protections, as well as representation of individuals who have survived domestic violence and other crimes and/or who seek avoidance of forced removal in immigration proceedings pursuant to various forms of relief (i.e., VAWA, U-visas, Cancellation of Removal, Temporary Protected Status, etc.). HIRC is also involved in appellate and policy advocacy at the local, national, and international levels on a broad range of immigrants' rights issues. One primary goal of HIRC is to disseminate information about and make the public aware of discriminatory immigration policies, including CBP policies that unfairly target F-1 visa holders and other immigrants from Middle Eastern countries. HIRC also represents F-1 visa holders who have been wrongly denied entry in the United States by CBP.¹⁷ For these reasons, Requestors will make any information that they receive as a result of this FOIA request available to the public, including the press, at no cost.

The issues of denial of entry, expedited removal, and visa revocation by CBP of F-1 visa holders are of significant public interest, as is the issue of how the federal government processes immigrants and non-immigrants in its custody.¹⁸ Requestors have undertaken this work in the public interest and not for any private commercial interest. The primary purpose of this FOIA request is to obtain information to further the public's understanding of federal immigration policies and practices. Access to this information is necessary for the public to meaningfully evaluate the consequences of federal immigration policies, including policies with regard to denial of entry, visa revocations, expedited removal, electronic device searches, and social media data collection by CBP at ports of entry across the United States.

Disclosure in this case therefore meets the statutory criteria, and a fee waiver would fulfill Congress's legislative intent. *See, e.g., Judicial Wrath, Inc. v. Rossotti*, 326 F.3d 1309,

Security's Office for Civil Rights and Civil Liberties (Jan. 30, 2020), <http://harvardimmigrationclinic.org/files/2020/02/Reihana-DHS-Complaint-1.30.20.pdf-REDACTED.pdf>.

¹⁶ *Id.*

¹⁷ *See* Complaint, U.S. Department of Homeland Security's Office for Civil Rights and Civil Liberties (Jan. 30, 2020), <http://harvardimmigrationclinic.org/files/2020/02/Reihana-DHS-Complaint-1.30.20.pdf-REDACTED.pdf>.

¹⁸ *See, e.g.,* Caleb Hampton, 'Treated like a terrorist': US deports growing number of Iranian students with valid visas from US airports, *The Guardian* (Jan. 14, 2020), <https://www.theguardian.com/us-news/2020/jan/14/they-treated-me-like-a-terrorist-the-vetted-iranians-blocked-from-the-us>.

1312 (D.C. Cir. 2003) (“Congress amended FOIA to ensure that it be ‘liberally construed in favor of waivers of noncommercial requestors.’”). Furthermore, because the documents subject to this request are not sought for any commercial use, we understand that no fee may be charged at least for the first two hours of search time and for the first 100 pages of duplication. 5 U.S.C. § 552(a)(4)(A)(iv)(II).

Certification

Requestors certify that the above information is true and correct to the best of their knowledge. *See* 6 C.F.R. § 5.5(d)(3).

Please reply to this request within twenty working days as required by statute. *See* 5 U.S.C. § 552(a)(6)(A)(i). Please furnish records as soon as they are identified to the following individual and address:

Sabi Ardalan
Harvard Immigration and Refugee Clinical Program
Harvard Law School
6 Everett Street, Suite 3106
Cambridge, MA 02138
sardalan@law.harvard.edu

If you have any questions regarding this request, please contact me at sardalan@law.harvard.edu or via phone at (617) 384-7504.

Sincerely,



Sabi Ardalan
Harvard Immigration and
Refugee Clinical Program
(617) 384-7504
sardalan@law.harvard.edu

EXHIBIT 2

Sabrineh Ardalan

Harvard Immigration and Refugee Clinical Program

WCC 3106
6 Everett Street
Cambridge, MA, 02138

06/04/2020

CBP-2020-056987

Dear Sabrineh Ardalan,

This is a final response to your Freedom of Information Act (FOIA) request to U.S. Customs and Border Protection (CBP).

CBP is granting your request under the FOIA, Title 5 U.S.C. §552. After carefully reviewing the responsive documents, CBP has determined that they are approved for release in their entirety, no deletions or exemptions have been applied.

If you have a FOIAonline account, you MUST log into your account to retrieve your responsive records. After logging in, click on "View My FOIA Requests". Requests that have new, unread correspondence have a mail icon next to the tracking number.

This completes the CBP response to your request.

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. See 5 U.S.C. 552(c). 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.

You may contact CBP's FOIA Public Liaison, Charlyse Hoskins, by sending an email via your FOIAonline account, mailing a letter to 90 K St, NE MS 1181, Washington DC, 20229 or by calling 202-325-0150. The FOIA Public Liaison is able to 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 notate file number CBP-2020-056987 on any future correspondence to CBP related to this request.

Sincerely,

U.S. Customs and Border Protection

EXHIBIT 3

Fiscal Month (FY yy-mm (mon))	Type of Visa	Field Office Name	Disposition Name	Inadmissibles Subject Count
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	ATLANTA	EXPEDITED REMOVAL (ER)	4
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	ATLANTA	WD IN LIEU OF ER	3
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	ATLANTA	WITHDRAWAL (WD2)	1
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	BALTIMORE	EXPEDITED REMOVAL-CREDIBLE FEAR (ERCF)	1
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	BALTIMORE	EXPEDITED REMOVAL (ER)	1
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	BALTIMORE	WD IN LIEU OF ER	4
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	BALTIMORE	WD IN LIEU OF NTA	3
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	BALTIMORE	WITHDRAWAL (WD2)	2
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	BOSTON	EXPEDITED REMOVAL (ER)	7
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	BOSTON	PAROLED-(DE)-DEFERRED INSPECTION	1
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	BOSTON	WD IN LIEU OF ER	34
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	BUFFALO	EXPEDITED REMOVAL (ER)	2
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	BUFFALO	WD IN LIEU OF NTA	1
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	CHICAGO	EXPEDITED REMOVAL-CREDIBLE FEAR (ERCF)	1
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	CHICAGO	EXPEDITED REMOVAL (ER)	22
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	CHICAGO	VISA WAIVER PROGRAM (VWP) - REFUSAL	2
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	CHICAGO	WD IN LIEU OF ER	19
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	DETROIT	EXPEDITED REMOVAL (ER)	3
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	DETROIT	WD IN LIEU OF ER	9
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	DETROIT	WITHDRAWAL (WD2)	1
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	HOUSTON	EXPEDITED REMOVAL (ER)	6
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	HOUSTON	PAROLED-(CP)-PUBLIC INTEREST	1
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	HOUSTON	WD IN LIEU OF ER	4
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	LAREDO	WD IN LIEU OF ER	2

FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	LAREDO	WITHDRAWAL (WD2)	1
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	LOS ANGELES	EXPEDITED REMOVAL-CREDIBLE FEAR (ERCF)	1
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	LOS ANGELES	EXPEDITED REMOVAL (ER)	17
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	LOS ANGELES	PAROLED-(DE)-DEFERRED INSPECTION	1
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	LOS ANGELES	WD IN LIEU OF ER	43
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	LOS ANGELES	WD IN LIEU OF NTA	8
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	MIAMI	EXPEDITED REMOVAL (ER)	2
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	MIAMI	NOTICE TO APPEAR (NTA)	1
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	MIAMI	PAROLED-(DA)-ADVANCE PAROLE	6
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	MIAMI	WD IN LIEU OF ER	3
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	MIAMI	WD IN LIEU OF NTA	1
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	NEW ORLEANS	PAROLED-(DT)-PORT OF ENTRY	1
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	NEW YORK	EXPEDITED REMOVAL (ER)	4
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	NEW YORK	WD IN LIEU OF ER	24
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	NEW YORK	WD IN LIEU OF NTA	1
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	PORTLAND	WD IN LIEU OF ER	1
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	PRECLEARANCE	WD IN LIEU OF NTA	1
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	PRECLEARANCE	WITHDRAWAL (WD)	98
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	PRECLEARANCE	WITHDRAWAL (WD2)	31
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	SAN DIEGO	EXPEDITED REMOVAL (ER)	1
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	SAN DIEGO	PAROLED-(DT)-PORT OF ENTRY	1
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	SAN DIEGO	WD IN LIEU OF ER	6
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	SAN FRANCISCO	EXPEDITED REMOVAL (ER)	21
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	SAN FRANCISCO	VISA WAIVER PROGRAM (VWP) - REFUSAL	6
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	SAN FRANCISCO	WD IN LIEU OF ER	9

FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	SAN FRANCISCO	WITHDRAWAL (WD2)	1
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	SEATTLE	EXPEDITED REMOVAL (ER)	12
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	SEATTLE	PAROLED-(DT)-PORT OF ENTRY	1
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	TUCSON	WD IN LIEU OF ER	1
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	ATLANTA	EXPEDITED REMOVAL (ER)	4
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	ATLANTA	NOTICE TO APPEAR / WARRANT OF ARREST (NTA/WA)	1
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	ATLANTA	WD IN LIEU OF ER	1
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	BALTIMORE	EXPEDITED REMOVAL-CREDIBLE FEAR (ERCF)	2
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	BOSTON	EXPEDITED REMOVAL (ER)	3
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	BOSTON	WD IN LIEU OF ER	8
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	BOSTON	WITHDRAWAL (WD2)	2
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	BUFFALO	VISA WAIVER PROGRAM (VWP) - REFUSAL	1
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	BUFFALO	WD IN LIEU OF ER	4
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	BUFFALO	WITHDRAWAL (WD2)	14
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	CHICAGO	EXPEDITED REMOVAL (ER)	6
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	CHICAGO	WD IN LIEU OF ER	5
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	DETROIT	WD IN LIEU OF ER	2
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	EL PASO	PAROLED-(DA)-ADVANCE PAROLE	1
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	HOUSTON	EXPEDITED REMOVAL (ER)	2
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	HOUSTON	VISA WAIVER PROGRAM (VWP) - REFUSAL	1
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	HOUSTON	WD IN LIEU OF ER	2
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	LAREDO	EXPEDITED REMOVAL-CREDIBLE FEAR (ERCF)	1
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	LAREDO	EXPEDITED REMOVAL (ER)	1
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	LOS ANGELES	EXPEDITED REMOVAL (ER)	3
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	LOS ANGELES	VISA WAIVER PROGRAM (VWP) - REFUSAL	1

FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	LOS ANGELES	WD IN LIEU OF ER	13
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	MIAMI	PAROLED-(DT)-PORT OF ENTRY	1
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	MIAMI	WD IN LIEU OF ER	2
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	NEW YORK	EXPEDITED REMOVAL (ER)	2
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	NEW YORK	NOTICE TO APPEAR (NTA)	1
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	NEW YORK	WD IN LIEU OF ER	10
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	PORTLAND	EXPEDITED REMOVAL (ER)	1
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	PRECLEARANCE	WITHDRAWAL (WD)	44
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	PRECLEARANCE	WITHDRAWAL (WD2)	12
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	SAN DIEGO	WD IN LIEU OF ER	4
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	SAN FRANCISCO	EXPEDITED REMOVAL (ER)	3
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	SAN FRANCISCO	PAROLED-(DE)-DEFERRED INSPECTION	1
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	SAN FRANCISCO	VISA WAIVER PROGRAM (VWP) - REFUSAL	2
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	SEATTLE	EXPEDITED REMOVAL (ER)	8
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	SEATTLE	WD IN LIEU OF ER	2
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	TAMPA	EXPEDITED REMOVAL (ER)	1
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	TAMPA	WITHDRAWAL (WD2)	1
FY 20-06 (MAR)	F-1 (ACADEMIC STUDENT)	ATLANTA	EXPEDITED REMOVAL (ER)	1
FY 20-06 (MAR)	F-1 (ACADEMIC STUDENT)	ATLANTA	WD IN LIEU OF ER	1
FY 20-06 (MAR)	F-1 (ACADEMIC STUDENT)	BALTIMORE	EXPEDITED REMOVAL (ER)	1
FY 20-06 (MAR)	F-1 (ACADEMIC STUDENT)	BALTIMORE	WD IN LIEU OF ER	2
FY 20-06 (MAR)	F-1 (ACADEMIC STUDENT)	BOSTON	WD IN LIEU OF ER	4
FY 20-06 (MAR)	F-1 (ACADEMIC STUDENT)	BOSTON	WITHDRAWAL (WD2)	1
FY 20-06 (MAR)	F-1 (ACADEMIC STUDENT)	BUFFALO	NOTICE TO APPEAR (NTA)	1
FY 20-06 (MAR)	F-1 (ACADEMIC STUDENT)	BUFFALO	WD IN LIEU OF ER	2

FY 20-06 (MAR)	F-1 (ACADEMIC STUDENT)	BUFFALO	WITHDRAWAL (WD2)	12
FY 20-06 (MAR)	F-1 (ACADEMIC STUDENT)	CHICAGO	EXPEDITED REMOVAL (ER)	3
FY 20-06 (MAR)	F-1 (ACADEMIC STUDENT)	CHICAGO	NOTICE TO APPEAR (NTA)	1
FY 20-06 (MAR)	F-1 (ACADEMIC STUDENT)	CHICAGO	WD IN LIEU OF ER	3
FY 20-06 (MAR)	F-1 (ACADEMIC STUDENT)	DETROIT	WD IN LIEU OF ER	1
FY 20-06 (MAR)	F-1 (ACADEMIC STUDENT)	DETROIT	WITHDRAWAL (WD2)	1
FY 20-06 (MAR)	F-1 (ACADEMIC STUDENT)	HOUSTON	EXPEDITED REMOVAL (ER)	1
FY 20-06 (MAR)	F-1 (ACADEMIC STUDENT)	HOUSTON	WD IN LIEU OF ER	2
FY 20-06 (MAR)	F-1 (ACADEMIC STUDENT)	LAREDO	WD IN LIEU OF ER	1
FY 20-06 (MAR)	F-1 (ACADEMIC STUDENT)	LOS ANGELES	EXPEDITED REMOVAL (ER)	1
FY 20-06 (MAR)	F-1 (ACADEMIC STUDENT)	LOS ANGELES	VISA WAIVER PROGRAM (VWP) - REFUSAL	1
FY 20-06 (MAR)	F-1 (ACADEMIC STUDENT)	LOS ANGELES	WD IN LIEU OF ER	7
FY 20-06 (MAR)	F-1 (ACADEMIC STUDENT)	MIAMI	EXPEDITED REMOVAL-CREDIBLE FEAR (ERCF)	1
FY 20-06 (MAR)	F-1 (ACADEMIC STUDENT)	MIAMI	PAROLED-(DA)-ADVANCE PAROLE	4
FY 20-06 (MAR)	F-1 (ACADEMIC STUDENT)	MIAMI	WD IN LIEU OF ER	1
FY 20-06 (MAR)	F-1 (ACADEMIC STUDENT)	NEW YORK	EXPEDITED REMOVAL (ER)	2
FY 20-06 (MAR)	F-1 (ACADEMIC STUDENT)	NEW YORK	WD IN LIEU OF ER	4
FY 20-06 (MAR)	F-1 (ACADEMIC STUDENT)	PRECLEARANCE	WITHDRAWAL (WD)	21
FY 20-06 (MAR)	F-1 (ACADEMIC STUDENT)	PRECLEARANCE	WITHDRAWAL (WD2)	11
FY 20-06 (MAR)	F-1 (ACADEMIC STUDENT)	SAN DIEGO	WD IN LIEU OF ER	2
FY 20-06 (MAR)	F-1 (ACADEMIC STUDENT)	SAN FRANCISCO	EXPEDITED REMOVAL (ER)	4
FY 20-06 (MAR)	F-1 (ACADEMIC STUDENT)	SAN FRANCISCO	VISA WAIVER PROGRAM (VWP) - REFUSAL	4
FY 20-06 (MAR)	F-1 (ACADEMIC STUDENT)	SAN FRANCISCO	WD IN LIEU OF ER	2
FY 20-06 (MAR)	F-1 (ACADEMIC STUDENT)	SEATTLE	EXPEDITED REMOVAL (ER)	10
FY 20-06 (MAR)	F-1 (ACADEMIC STUDENT)	SEATTLE	WD IN LIEU OF ER	3

FY 20-06 (MAR)	F-1 (ACADEMIC STUDENT)	SEATTLE	WITHDRAWAL (WD2)	2
FY 20-06 (MAR)	F-1 (ACADEMIC STUDENT)	TAMPA	WD IN LIEU OF ER	1
FY 20-07 (APR)	F-1 (ACADEMIC STUDENT)	CHICAGO	EXPEDITED REMOVAL (ER)	1
FY 20-07 (APR)	F-1 (ACADEMIC STUDENT)	CHICAGO	PAROLED-(DT)-PORT OF ENTRY	2
FY 20-07 (APR)	F-1 (ACADEMIC STUDENT)	LOS ANGELES	WD IN LIEU OF ER	1
FY 20-07 (APR)	F-1 (ACADEMIC STUDENT)	MIAMI	PAROLED-(DA)-ADVANCE PAROLE	1
FY 20-07 (APR)	F-1 (ACADEMIC STUDENT)	SAN DIEGO	WITHDRAWAL (WD2)	1
FY 20-07 (APR)	F-1 (ACADEMIC STUDENT)	SAN FRANCISCO	VISA WAIVER PROGRAM (VWP) - REFUSAL	1
FY 20-08 (MAY)	F-1 (ACADEMIC STUDENT)	BALTIMORE	EXPEDITED REMOVAL (ER)	1
FY 20-08 (MAY)	F-1 (ACADEMIC STUDENT)	EL PASO	VOLUNTARY RETURN	1
FY 20-08 (MAY)	F-1 (ACADEMIC STUDENT)	HOUSTON	EXPEDITED REMOVAL (ER)	1
FY 20-08 (MAY)	F-1 (ACADEMIC STUDENT)	HOUSTON	WD IN LIEU OF ER	1
FY 20-08 (MAY)	F-1 (ACADEMIC STUDENT)	LOS ANGELES	WD IN LIEU OF ER	1
FY 20-08 (MAY)	F-1 (ACADEMIC STUDENT)	NEW YORK	WITHDRAWAL (WD2)	1
FY 20-08 (MAY)	F-1 (ACADEMIC STUDENT)	PRECLEARANCE	WITHDRAWAL (WD2)	2
FY 20-08 (MAY)	F-1 (ACADEMIC STUDENT)	SAN DIEGO	EXPEDITED REMOVAL (ER)	1
FY 20-08 (MAY)	F-1 (ACADEMIC STUDENT)	SAN FRANCISCO	WD IN LIEU OF ER	1
FY 20-08 (MAY)	F-1 (ACADEMIC STUDENT)	SEATTLE	WD IN LIEU OF ER	1

EXHIBIT 4



6 Everett St., Suite 3103
Cambridge, MA 02138
hirc@law.harvard.edu
(617) 384-8165

July 23, 2020

U.S. Customs and Border Protection
FOIA Appeals, Policy and Litigation Branch
90 K Street NE
Washington, D.C. 20229

Re: Freedom of Information Act Appeal, FOIA CBP-2020-056987

To Whom It May Concern:

This is an administrative appeal under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, for the U.S. Customs and Border Protection's (CBP) failure to adequately search and release all non-exempt records responsive to our FOIA request. 5 U.S.C. § 552(a)(3).

On May 29, 2020, the Harvard Immigration and Refugee Clinical Program ("HIRC") submitted a FOIA request to CBP for certain records regarding CBP's use of denial of entry, revocation of visas and expedited removal of persons presenting F-1 visas at any U.S. port of entry. *See* Attachment 1.

On June 4, 2020, the Harvard Immigration and Refugee Clinical Program received a response from CBP, asserting that CBP was "granting [our] request." The response indicated that the records subject to our request had been "approved for their release in their entirety, no deletions or exemptions [having] been applied." *See* Attachment 2.

The records CBP provided were not, however, complete either with respect to the time period requested or the geographic scope requested. First, the records CBP provided only encompassed **FY 2020** and some ports of entry. Yet, our request specifically asked for records regarding use of denial of entry, revocation of visas and expedited removal of persons presenting F-1 visas at any U.S. port of entry from **January 2012 until present**. *See* Attachment 1.

Second, the documents provided were missing much of the detail requested. Indeed, the six pages CBP provided only contained an itemized listing out the date, type of visa, field office port of entry and disposition type (i.e. expedited removal or withdrawal). The pages did not include any information regarding the number of F-1 visa holders questioned by ICE or the FBI or subjected to searches of their electronic devices. The records did not indicate how many F-1 visa holders' social media identifiers CBP sought. The pages did not indicate how many were granted

or denied access to counsel. The pages did not include the national origin of the F-1 visa holders subjected to denial of entry, revocation of visa or expedited removal. The documents do not include the names of the CBP officers or shift supervisors on duty during either the withdrawal of admission or the expedited removal.

Third, despite the clear request included in the FOIA request, the pages produced by CBP do not contain any directives, orders, training materials, memoranda, guidance, briefings, instructions, policies, procedures, rules, regulations, e-mail, other electronic communications and/or any other communications regarding CBP officials' assessment of the admissibility of F-1 visa holders at ports of entry; review by the Department of Homeland Security Office of Inspector General (OIG) or any other independent agency of ports of entry in which CBP officials have denied entry to visa holders; review by the OIG or any other independent agency of CBP officials' use and application of INA § 212(a)(7); guidance to CBP officials related to the OIG report published in January 2018 detailing CBP's failure to fully comply with court orders to enjoin implementation of Executive Order 13769 of January 27, 2017 or related to enhanced vetting of individuals from countries included in Executive Order 13780 of March 6, 2017, Presidential Proclamation 9645 of September 24, 2017, and Presidential Proclamation 9983 of January 31, 2020; guidance to CBP officials related to the formation, development, and/or implementation of Tactical Terrorism Response Teams; or guidance regarding ICE's involvement with CBP in denying entry to visa holders, revoking visas of visa holders, issuing expedited removal orders, and/or requesting withdrawal of admission from visa holders.

The documents produced thus do not reflect a release of the documents in "their entirety" with "no delegations of exemptions," and HIRC hereby appeals CBP's response as insufficient. Given the mismatch between the documents produced and the documents requested, it is clear that CBP failed to conduct an adequate search, 5 U.S.C. § 552(a)(3)(A), and its response was insufficient to meet the "reasonable effort" requirement in 5 U.S.C. § 552(a)(3)(B)–(C). The fact that CBP was able to produce documents relating to FY2020 means that the agency keeps some of the type of documentation requested but failed to produce it for the entire requested time period.

Pursuant to the FOIA, in response to a request, an agency must "review, manually or by automated means, agency records for the purpose of locating those records which are responsive to a request." 5 U.S.C. § 552(a)(3)(D). A "record" includes: "(A) any information that would be an agency record subject to the requirements of this section when maintained by an agency in any format, including an electronic format; and (B) any information described under subparagraph (A) that is maintained for an agency or by an entity under Government contract, for the purposes of records management." 5 U.S.C. § 552(f)(2).

The agency must show that it has conducted a search reasonably calculated to uncover all relevant documents. *Hamdan v. U.S. Dep't of Justice*, 797 F.3d 759, 770-71 (9th Cir. 2015). The adequacy of an agency's search is measured by a "standard of reasonableness" and is "dependent" upon the circumstances of the case." *Zemansky v. U.S. E.P.A.*, 767 F.2d 569, 571 (9th Cir 1985) (citations omitted). Courts have found that searches may be inadequate where a "review of the record raises substantial doubt, particularly in view of well-defined requests and positive indications of overlooked materials." *Hamdan*, 797 F.3d at 771. "An agency has discretion to conduct a standard search in response to a general request, but it must revise its

assessment of what is ‘reasonable’ in a particular case to account for leads that emerge during its inquiry.” *See Campbell v. U.S. Dep’t of Justice*, 164 F.3d 20, 28 (D.C. Cir 1998), *as amended* (Mar. 3, 1999); *Ctr. For Nat. Sec. Studies v. U.S. Dep’t of Justice*, 215 F. Supp. 2d 94, 109-11 (D.D.C. 2002), *aff’d in part, rev’d in part*, 331 F.3d 918 (D.C. Cir. 2003). Agency searches have been deemed inadequate based on specific evidence that responsive documents exist but were not produced. *See Tarullo v. U.S. Dep’t of Def.*, 170 F. Supp. 2d 271, 275 (D. Conn. 2001); *Kronberg v. U.S. Dep’t of Justice*, 875 F. Supp. 861, 869-71 (D.D.C. 1995).

Our FOIA request also sought a fee waiver of all costs incurred by CBP in answering the request because the information sought is “likely to contribute significantly to public understanding of the operations or activities of the government and [was] not primarily in the [Plaintiff’s] commercial interest.” 5 U.S.C. § 552(a)(4)(A)(iii). *See* Attachment 1. As the request explained, “[o]ne primary goal of HIRC is to disseminate information about and make the public aware of discriminatory immigration policies, including CBP policies that unfairly target F-1 visa holders and other immigrants from Middle Eastern countries. HIRC also represents F-1 visa holders who have been wrongly denied entry in the United States by CBP.” *Id.* Therefore, HIRC “will make any information that they receive as a result of this FOIA request available to the public, including the press, at no cost.” *Id.* In response to HIRC’s request for a fee waiver, CBP stated that our fee waiver request “has been determined to be not applicable as the request is not billable.” *See* Attachment 3 (FOIA Fee Waiver Disposition Reached for CBP-2020-056987). However, CBP made that determination as part of its insufficient and improper response.

To the extent a fee waiver is applicable to HIRC’s FOIA request, a fee waiver should be granted. *See* 5 U.S.C. § 552(a)(4)(A)(iii) (fees “shall” be waived if criteria are met); *see also* 6 C.F.R. § 5.11(k)(1) (fees “shall” shall be waived when “[d]isclosure of the requested information is in the public interest . . . and [d]isclosure of the information is not primarily in the commercial interest of the requester”); 28 C.F.R. § 16.10(k)(1) (“[r]equester[] may seek a waiver of fees by . . . demonstrating how disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester”).

Our FOIA request also requested expedited processing because, as the request is being processed, “F-1 visa holders continue to be wrongfully denied entry into the United States, have their visas revoked, and be placed into expedited removal proceedings.” *See* Attachment 1. Because the FOIA request was granted in full, and CBP responded to the request in five days, we assume that our request for expedited processing was granted. To the extent our expedited processing request was not granted, we appeal that determination too.

For the reasons set forth above, CBP’s response to our FOIA request was improper and insufficient. We respectfully request that CBP conduct an adequate search for responsive records and produce all non-exempt portions of those records as soon as possible. We also respectfully request that CBP grant HIRC a fee waiver, if applicable, and confirm that our request for expedited processing was granted. We further expect a response to this appeal within 20 business days. *See* 5 U.S.C. § 552(a)(6)(A)(ii).

Please direct all correspondence related to this appeal to:

Sabrineh Ardalan
Harvard Immigration and Refugee Clinical Program
6 Everett Street, WCC Suite 3103, Cambridge, MA 02138
Telephone: 617-384-7504
Email: sardalan@law.harvard.edu

Thank you in advance for your assistance with this matter.

Respectfully submitted,

/s/_Sabrineh Ardalan_____
Sabrineh Ardalan
Sameer Ahmed
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Cambridge, MA, 02138
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ATTACHMENT 1

HARVARD LAW SCHOOL

CAMBRIDGE · MASSACHUSETTS · 02138

HARVARD IMMIGRATION AND
REFUGEE CLINIC
Harvard Law School

Location: 6 Everett St., Suite 3103
E-mail Address: hirc@law.harvard.edu
Phone: 617-384-8165

May 29, 2020

SENT VIA EMAIL (CBP-FOIA@dhs.gov)

U.S. Customs and Border Protection
90 K Street, NE
FOIA Division
Washington, DC 20229

To Whom It May Concern:

This is a request for records made pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552 et seq., and the relevant implementing regulations, *see* 6 C.F.R. § 5 (Department of Homeland Security, Disclosure of Records and Information). The Request is submitted by the Harvard Immigration and Refugee Clinical Program (“HIRC”), Clinical Professor of Law Sabi Ardlan, Clinical Instructor Sameer Ahmed, and Staff Attorney Jason Corral (“Requestors”). Requestors seek the disclosure of records related to individuals with F-1 student visas denied entry and/or deemed inadmissible by Customs and Border Protection (“CBP”) at ports of entry, as well as policies regarding denial of entry, visa revocations, expedited removal, electronic device searches and social media data collection for visa holders.

Background

Over the past year, CBP has denied multiple students from countries in the Middle East entry to the United States, despite their arrival at ports of entry with valid F-1 student visas. Since August 2019, for example, CBP has sent at least 10 Iranian students with valid F-1 visas back to Iran, with over seven of those students travelling through Boston’s Logan Airport.¹ Some

¹ Caleb Hampton, ‘Treated like a terrorist’: US deports growing number of Iranian students with valid visas from US airports, *The Guardian* (Jan. 14, 2020), <https://www.theguardian.com/us-news/2020/jan/14/they-treated-me-like-a-terrorist-the-vetted-iranians-blocked-from-the-us>.

of the students allege serious infractions by CBP, including several complaints about an individual officer.²

One Iranian student, Reihana Emami Arandi, for example, was admitted to the Master of Theological Studies Program at the Harvard Divinity School for the 2019-2020 academic year.³ The U.S. State Department issued her a student visa on September 11, 2019, after months of administrative processing.⁴ But upon arrival at Boston Logan Airport on September 18, 2019, CBP subjected her to over eight hours of intensive questioning and ultimately refused to admit her.⁵ Instead, CBP issued an expedited removal order, which renders her inadmissible to the United States for five years.⁶

Another case of an Iranian student with a valid visa sent back to Iran by CBP involves Shahab Dehghani. Mr. Dehghani, who arrived at Boston Logan Airport on January 19, 2020, was enrolled to study at Northeastern University. CBP officials detained him and questioned him for hours before revoking his student visa, which the State Department granted him after a year of vetting.⁷ Despite a judge's order that Mr. Dehghani remain in the United States for a hearing, CBP removed Mr. Dehghani.⁸

Records Requested

As used herein, the term “records” includes all records or communications preserved in electronic or written form, including but not limited to: correspondence; documents; data; videotapes; audio tapes; emails; faxes; files; guidance; guidelines; evaluations; instructions; analysis; memoranda; agreements; notes; orders; policies; procedures; protocols; reports; rules; manuals; specifications; and studies.

As used herein, the term “expedited removal” is a process authorized by the Immigration and Nationality Act (INA) § 235(b)(1) that allows summary removal of certain noncitizens from the United States without a hearing before an immigration judge.⁹ Although expedited removal may be applied to individuals who are deemed inadmissible under INA § 212(a)(6)(C) or § 212(a)(7), CBP must inform individuals potentially subject to expedited removal of their rights and refer those with a fear of return to their countries of origin to asylum officers within U.S. Citizenship and Immigration Services for credible fear interviews.¹⁰

²*Id.*

³ Attorneys from HIRC submitted a complaint and amended complaint in the federal district court for the District of Massachusetts as well as a complaint with the Office of Civil Rights and Civil Liberties of the Department of Homeland Security (DHS) on behalf of Ms. Arandi. *See* Complaint, U.S. Department of Homeland Security's Office for Civil Rights and Civil Liberties (Jan. 30, 2020), <http://harvardimmigrationclinic.org/files/2020/02/Reihana-DHS-Complaint-1.30.20.pdf-REDACTED.pdf>.

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ Caleb Hampton, ‘Treated like a terrorist’: US deports growing number of Iranian students with valid visas from US airports, *The Guardian* (Jan. 14, 2020), <https://www.theguardian.com/us-news/2020/jan/14/they-treated-me-like-a-terrorist-the-vetted-iranians-blocked-from-the-us>.

⁸ *Id.*

⁹ *A Primer on Expedited Removal*, American Immigration Council (July 22, 2019), <https://www.americanimmigrationcouncil.org/research/primer-expedited-removal>.

¹⁰ *Expansion of Expedited Removal FAQs*, Catholic Legal Immigration Network, <https://cliniclegal.org/resources/border-issues/expedited-removal/expansion-expedited-removal-faqs>.

As used herein, the term “revocation” refers to an immigration officer revoking a valid visa, which occurs when the officer physically cancels it, including by writing or stamping the word “Revoked” plainly across the face of the visa.¹¹

As used herein, the term “withdrawal of admission” refers to withdrawal at the port of entry whereby, “[a]n alien applying for admission may, in the discretion of the Department of Homeland Security and at any time, be permitted to withdraw the application for admission and depart immediately from the United States.” INA § 235(a)(4).

Should any responsive record contain the personal identifying information of any third party, Requestors ask that the agencies redact that information. This Request seeks aggregate data and records relevant to CBP’s denial of entry, expedited removal, and revocation of visas for individuals with F-1 visas, not any personal or identifying information about any specific individual(s). However, to the extent available, please include data fields indicating individuals’ ethnicity, country of origin, race, English proficiency, religion, and/or other similar characteristics in disaggregated form.

For the period **beginning January 1, 2012 to the present**, Requestors seek disclosure of the following records in the custody or control of CBP regarding the expedited removal or withdrawal of admission of persons presenting F-1 visas (“F-1 visa holders”) at all U.S. ports of entry:

- I. Records regarding the expedited removal of persons who have presented an F-1 visa at a port of entry (each such instance, an “F-1 Expedited Removal”), including:
 - a. The total number of F-1 Expedited Removals at each port of entry, including Boston Logan Airport
 - b. The total number of F-1 Expedited Removals where the statutory basis given for the removal was INA § 212(a)(7) or a subparagraph of § 212(a)(7)
 - c. The total number of F-1 Expedited Removals in which the recorded reason for the removal was that the entrant could not overcome the presumption of immigrant intent
 - d. The total number of instances where CBP initiated expedited removal proceedings against an F-1 visa holder, and the F-1 visa holder was granted admission into the United States
 - e. The total number of F-1 Expedited Removals where the F-1 visa holders were questioned by or interacted with an ICE agent
 - f. The total number of F-1 Expedited Removals where the F-1 visa holders were questioned by or interacted with an FBI agent
 - g. The total number of F-1 Expedited Removals where the F-1 visa holders’ electronic devices were searched at the port of entry
 - h. The total number of F-1 Expedited Removals where CBP sought the F-1 visa holders’ social media identifiers
 - i. All CBP records for each F-1 Expedited Removal at Boston Logan Airport between January 1, 2012 and the present date, including records disclosing:
 - i. Date of decision of the expedited removal

¹¹ 22 C.F.R. § 41.122 (d); 22 C.F.R. § 41.122(e).

- ii. National origin of the F-1 visa holder
 - iii. Statute under which the F-1 visa holder was found to be inadmissible
 - iv. Arrival time of the F-1 visa holder's flight
 - v. Duration of time the F-1 visa holder spent in secondary screening
 - vi. Whether an ICE agent questioned the F-1 visa holder
 - vii. Whether an FBI agent questioned the F-1 visa holder
 - viii. Number of times the F-1 visa holder requested access to counsel
 - ix. Whether the F-1 visa holder was granted access to counsel
 - x. Whether the F-1 visa holder was denied access to counsel
 - xi. Whether the F-1 visa holder's electronic devices were searched
 - xii. Whether the F-1 visa holder's social media identifiers were sought
 - xiii. Name of the CBP officer who initiated the expedited removal proceedings
 - xiv. Name of the CBP shift supervisor at the time when the expedited removal proceedings were initiated
- II. Records regarding the withdrawal of admission of F-1 visa holders at a port of entry (each such instance, an "F-1 Withdrawal of Entry") including:
 - a. The total number of F-1 Withdrawals of Entry at each port of entry, including Boston Logan Airport
 - b. The total number of F-1 Withdrawals of Entry where the F-1 visa holders were questioned by or interacted with an ICE agent
 - c. The total number of F-1 Withdrawals of Entry where the F-1 visa holders were questioned by or interacted with an FBI agent
 - d. The total number of F-1 Withdrawals of Entry where the F-1 visa holders' electronic devices were searched at the port of entry
 - e. The total number of F-1 Withdrawals of Entry where CBP sought the F-1 visa holders' social media identifiers
 - f. All CBP records for each F-1 Withdrawal of Entry at Boston Logan Airport between January 1, 2012 and the present date, including:
 - i. Date the withdrawal of admission was made
 - ii. National origin of the F-1 visa holder
 - iii. Arrival time of the F-1 visa holder's flight
 - iv. Duration of time the F-1 visa holder spent in secondary screening
 - v. Whether an ICE agent questioned the F-1 visa holder
 - vi. Whether an FBI agent questioned the F-1 visa holder
 - vii. Number of times the F-1 visa holder requested access to counsel
 - viii. Whether the F-1 visa holder was granted access to counsel
 - ix. Whether the F-1 visa holder was denied access to counsel
 - x. Whether the F-1 visa holder's electronic devices were searched
 - xi. Whether the F-1 visa holder's social media identifiers were sought
 - xii. Name of the CBP officer to whom the withdrawal of admission was provided
 - xiii. Name of the CBP shift supervisor at the time when the withdrawal of admission occurred
- III. All directives, orders, training materials, memoranda, guidance, briefings, instructions, policies, procedures, rules, regulations, e-mail, other electronic

communications and/or any other communications, whether issued verbally or in writing, regarding the following:

- a. CBP officials' assessment of the admissibility of F-1 visa holders at ports of entry, including whether to deny entry to F-1 visa holders, revoke the visas of F-1 visa holders, initiate expedited removal proceedings against F-1 visa holders, and request withdrawals of admission from F-1 visa holders
- b. Any review by the Department of Homeland Security Office of Inspector General ("OIG") or any other independent agency of ports of entry in which CBP officials have denied entry to visa holders, revoked visas of visa holders, issued expedited removal orders, and/or requested withdrawals of admission from visa holders
- c. Any review by the OIG or any other independent agency of CBP officials' use and application of INA § 212(a)(7)
- d. Any guidance to CBP officials related to the OIG report published in January 2018 detailing CBP's failure to fully comply with court orders to enjoin implementation of Executive Order 13769 of January 27, 2017¹²
- e. Any guidance to CBP officials related to enhanced vetting of individuals from countries included in Executive Order 13780 of March 6, 2017, Presidential Proclamation 9645 of September 24, 2017, and Presidential Proclamation 9983 of January 31, 2020
- f. Any guidance to CBP officials related to the formation, development, and/or implementation of Tactical Terrorism Response Teams
- g. Any guidance regarding ICE's involvement with CBP in denying entry to visa holders, revoking visas of visa holders, issuing expedited removal orders, and/or requesting withdrawal of admission from visa holders

Expedited Processing Request

The D.C. Circuit in *Open America v. Watergate Special Prosecution Force* recognized that some FOIA requests involve a greater degree of urgency than others.¹³ Accordingly, where, as here, a requestor can show "exceptional need or urgency," that request should be processed on an expedited basis.¹⁴

The above request should be expedited because, as this request is being processed, F-1 visa holders continue to be wrongfully denied entry into the United States, have their visas revoked, and be placed into expedited removal proceedings. The F-1 visa holders who have been and will continue to be wrongfully denied entry, have their visas revoked, and be placed into expedited removal proceedings are significantly harmed by CBP's actions and their lives have been seriously disrupted.¹⁵ CBP has denied the F-1 visa holders the right to begin and continue

¹² DHS OIG, *DHS Implementation of Executive Order #13769 "Protecting the Nation From Foreign Terrorist Entry Into the United States,"* Department of Homeland Security, Jan. 27, 2017 (Jan. 2018), <https://www.oig.dhs.gov/sites/default/files/assets/2018-01/OIG-18-37-Jan18.pdf>.

¹³ *Open America v. Watergate Special Prosecution Force*, 547 F.2d 605, 616 (D.C. Cir. 1976).

¹⁴ *Id.*

¹⁵ See, e.g., Caleb Hampton, 'Treated like a terrorist': US deports growing number of Iranian students with valid visas from US airports, *The Guardian* (Jan. 14, 2020), <https://www.theguardian.com/us-news/2020/jan/14/they-treated-me-like-a-terrorist-the-vetted-iranians-blocked-from-the-us>; Complaint, U.S. Department of Homeland

their education in the United States, despite being issued valid F-1 visas by the U.S. Department of State.¹⁶ This request will shed light on CBP's actions in the hopes that these F-1 visa holders may soon begin and continue their education in the United States. Therefore, this request requires immediate attention. Furthermore, the information requested in this FOIA request cannot be obtained elsewhere, as it is only in the custody and control of CBP.

Fee Waiver Request

Requestors are entitled to a waiver or reduction of all fees and costs because the information sought "is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the [Requestors'] commercial interest." 5 U.S.C. § 552(a)(4)(A)(iii); 6 C.F.R. § 5.11(k) (records must be furnished without charge if the information is in the public interest, and disclosure is not in the commercial interest of the institution); 6 C.F.R. § 5.11(d).

Requestors are members of the Harvard Immigration and Refugee Clinical Program (HIRC), an academic program focused on direct representation of individuals applying for U.S. asylum and related protections, as well as representation of individuals who have survived domestic violence and other crimes and/or who seek avoidance of forced removal in immigration proceedings pursuant to various forms of relief (i.e., VAWA, U-visas, Cancellation of Removal, Temporary Protected Status, etc.). HIRC is also involved in appellate and policy advocacy at the local, national, and international levels on a broad range of immigrants' rights issues. One primary goal of HIRC is to disseminate information about and make the public aware of discriminatory immigration policies, including CBP policies that unfairly target F-1 visa holders and other immigrants from Middle Eastern countries. HIRC also represents F-1 visa holders who have been wrongly denied entry in the United States by CBP.¹⁷ For these reasons, Requestors will make any information that they receive as a result of this FOIA request available to the public, including the press, at no cost.

The issues of denial of entry, expedited removal, and visa revocation by CBP of F-1 visa holders are of significant public interest, as is the issue of how the federal government processes immigrants and non-immigrants in its custody.¹⁸ Requestors have undertaken this work in the public interest and not for any private commercial interest. The primary purpose of this FOIA request is to obtain information to further the public's understanding of federal immigration policies and practices. Access to this information is necessary for the public to meaningfully evaluate the consequences of federal immigration policies, including policies with regard to denial of entry, visa revocations, expedited removal, electronic device searches, and social media data collection by CBP at ports of entry across the United States.

Disclosure in this case therefore meets the statutory criteria, and a fee waiver would fulfill Congress's legislative intent. *See, e.g., Judicial Wrath, Inc. v. Rossotti*, 326 F.3d 1309,

Security's Office for Civil Rights and Civil Liberties (Jan. 30, 2020), <http://harvardimmigrationclinic.org/files/2020/02/Reihana-DHS-Complaint-1.30.20.pdf-REDACTED.pdf>.

¹⁶ *Id.*

¹⁷ *See* Complaint, U.S. Department of Homeland Security's Office for Civil Rights and Civil Liberties (Jan. 30, 2020), <http://harvardimmigrationclinic.org/files/2020/02/Reihana-DHS-Complaint-1.30.20.pdf-REDACTED.pdf>.

¹⁸ *See, e.g.,* Caleb Hampton, 'Treated like a terrorist': US deports growing number of Iranian students with valid visas from US airports, *The Guardian* (Jan. 14, 2020), <https://www.theguardian.com/us-news/2020/jan/14/they-treated-me-like-a-terrorist-the-vetted-iranians-blocked-from-the-us>.

1312 (D.C. Cir. 2003) (“Congress amended FOIA to ensure that it be ‘liberally construed in favor of waivers of noncommercial requestors.’”). Furthermore, because the documents subject to this request are not sought for any commercial use, we understand that no fee may be charged at least for the first two hours of search time and for the first 100 pages of duplication. 5 U.S.C. § 552(a)(4)(A)(iv)(II).

Certification

Requestors certify that the above information is true and correct to the best of their knowledge. *See* 6 C.F.R. § 5.5(d)(3).

Please reply to this request within twenty working days as required by statute. *See* 5 U.S.C. § 552(a)(6)(A)(i). Please furnish records as soon as they are identified to the following individual and address:

Sabi Ardalan
Harvard Immigration and Refugee Clinical Program
Harvard Law School
6 Everett Street, Suite 3106
Cambridge, MA 02138
sardalan@law.harvard.edu

If you have any questions regarding this request, please contact me at sardalan@law.harvard.edu or via phone at (617) 384-7504.

Sincerely,



Sabi Ardalan
Harvard Immigration and
Refugee Clinical Program
(617) 384-7504
sardalan@law.harvard.edu

ATTACHMENT 2

From: no-reply@foiaonline.gov
To: [Ardalan, Sabi](#)
Subject: Final Disposition, Request CBP-2020-056987
Date: Thursday, June 4, 2020 11:04:35 AM
Attachments: [CBP-2020-056987 F-1.pdf](#)
[Full Grant 2020-06-04 110235 Letter.pdf](#)

CBP-2020-056987 has been processed with the following final disposition: Full Grant.

Given the nature of this request, some records are only being released to you as the requester. If you have an account in FOIAonline, you may access those records by **[FOIAONLINE_HOME]**. Otherwise, those responsive records will be sent via the method agreed upon with the FOIA processor.

Sabrineh Ardalan

Harvard Immigration and Refugee Clinical Program

WCC 3106
6 Everett Street
Cambridge, MA, 02138

06/04/2020

CBP-2020-056987

Dear Sabrineh Ardalan,

This is a final response to your Freedom of Information Act (FOIA) request to U.S. Customs and Border Protection (CBP).

CBP is granting your request under the FOIA, Title 5 U.S.C. §552. After carefully reviewing the responsive documents, CBP has determined that they are approved for release in their entirety, no deletions or exemptions have been applied.

If you have a FOIAonline account, you MUST log into your account to retrieve your responsive records. After logging in, click on "View My FOIA Requests". Requests that have new, unread correspondence have a mail icon next to the tracking number.

This completes the CBP response to your request.

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. See 5 U.S.C. 552(c). 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.

You may contact CBP's FOIA Public Liaison, Charlyse Hoskins, by sending an email via your FOIAonline account, mailing a letter to 90 K St, NE MS 1181, Washington DC, 20229 or by calling 202-325-0150. The FOIA Public Liaison is able to 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 notate file number CBP-2020-056987 on any future correspondence to CBP related to this request.

Sincerely,

U.S. Customs and Border Protection

Fiscal Month (FY yy-mm (mon))	Type of Visa	Field Office Name	Disposition Name	Inadmissibles Subject Count
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	ATLANTA	EXPEDITED REMOVAL (ER)	4
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	ATLANTA	WD IN LIEU OF ER	3
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	ATLANTA	WITHDRAWAL (WD2)	1
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	BALTIMORE	EXPEDITED REMOVAL-CREDIBLE FEAR (ERCF)	1
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	BALTIMORE	EXPEDITED REMOVAL (ER)	1
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	BALTIMORE	WD IN LIEU OF ER	4
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	BALTIMORE	WD IN LIEU OF NTA	3
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	BALTIMORE	WITHDRAWAL (WD2)	2
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	BOSTON	EXPEDITED REMOVAL (ER)	7
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	BOSTON	PAROLED-(DE)-DEFERRED INSPECTION	1
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	BOSTON	WD IN LIEU OF ER	34
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	BUFFALO	EXPEDITED REMOVAL (ER)	2
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	BUFFALO	WD IN LIEU OF NTA	1
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	CHICAGO	EXPEDITED REMOVAL-CREDIBLE FEAR (ERCF)	1
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	CHICAGO	EXPEDITED REMOVAL (ER)	22
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	CHICAGO	VISA WAIVER PROGRAM (VWP) - REFUSAL	2
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	CHICAGO	WD IN LIEU OF ER	19
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	DETROIT	EXPEDITED REMOVAL (ER)	3
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	DETROIT	WD IN LIEU OF ER	9
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	DETROIT	WITHDRAWAL (WD2)	1
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	HOUSTON	EXPEDITED REMOVAL (ER)	6
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	HOUSTON	PAROLED-(CP)-PUBLIC INTEREST	1
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	HOUSTON	WD IN LIEU OF ER	4
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	LAREDO	WD IN LIEU OF ER	2

FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	LAREDO	WITHDRAWAL (WD2)	1
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	LOS ANGELES	EXPEDITED REMOVAL-CREDIBLE FEAR (ERCF)	1
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	LOS ANGELES	EXPEDITED REMOVAL (ER)	17
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	LOS ANGELES	PAROLED-(DE)-DEFERRED INSPECTION	1
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	LOS ANGELES	WD IN LIEU OF ER	43
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	LOS ANGELES	WD IN LIEU OF NTA	8
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	MIAMI	EXPEDITED REMOVAL (ER)	2
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	MIAMI	NOTICE TO APPEAR (NTA)	1
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	MIAMI	PAROLED-(DA)-ADVANCE PAROLE	6
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	MIAMI	WD IN LIEU OF ER	3
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	MIAMI	WD IN LIEU OF NTA	1
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	NEW ORLEANS	PAROLED-(DT)-PORT OF ENTRY	1
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	NEW YORK	EXPEDITED REMOVAL (ER)	4
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	NEW YORK	WD IN LIEU OF ER	24
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	NEW YORK	WD IN LIEU OF NTA	1
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	PORTLAND	WD IN LIEU OF ER	1
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	PRECLEARANCE	WD IN LIEU OF NTA	1
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	PRECLEARANCE	WITHDRAWAL (WD)	98
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	PRECLEARANCE	WITHDRAWAL (WD2)	31
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	SAN DIEGO	EXPEDITED REMOVAL (ER)	1
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	SAN DIEGO	PAROLED-(DT)-PORT OF ENTRY	1
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	SAN DIEGO	WD IN LIEU OF ER	6
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	SAN FRANCISCO	EXPEDITED REMOVAL (ER)	21
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	SAN FRANCISCO	VISA WAIVER PROGRAM (VWP) - REFUSAL	6
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	SAN FRANCISCO	WD IN LIEU OF ER	9

FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	SAN FRANCISCO	WITHDRAWAL (WD2)	1
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	SEATTLE	EXPEDITED REMOVAL (ER)	12
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	SEATTLE	PAROLED-(DT)-PORT OF ENTRY	1
FY 20-04 (JAN)	F-1 (ACADEMIC STUDENT)	TUCSON	WD IN LIEU OF ER	1
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	ATLANTA	EXPEDITED REMOVAL (ER)	4
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	ATLANTA	NOTICE TO APPEAR / WARRANT OF ARREST (NTA/WA)	1
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	ATLANTA	WD IN LIEU OF ER	1
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	BALTIMORE	EXPEDITED REMOVAL-CREDIBLE FEAR (ERCF)	2
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	BOSTON	EXPEDITED REMOVAL (ER)	3
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	BOSTON	WD IN LIEU OF ER	8
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	BOSTON	WITHDRAWAL (WD2)	2
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	BUFFALO	VISA WAIVER PROGRAM (VWP) - REFUSAL	1
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	BUFFALO	WD IN LIEU OF ER	4
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	BUFFALO	WITHDRAWAL (WD2)	14
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	CHICAGO	EXPEDITED REMOVAL (ER)	6
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	CHICAGO	WD IN LIEU OF ER	5
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	DETROIT	WD IN LIEU OF ER	2
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	EL PASO	PAROLED-(DA)-ADVANCE PAROLE	1
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	HOUSTON	EXPEDITED REMOVAL (ER)	2
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	HOUSTON	VISA WAIVER PROGRAM (VWP) - REFUSAL	1
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	HOUSTON	WD IN LIEU OF ER	2
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	LAREDO	EXPEDITED REMOVAL-CREDIBLE FEAR (ERCF)	1
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	LAREDO	EXPEDITED REMOVAL (ER)	1
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	LOS ANGELES	EXPEDITED REMOVAL (ER)	3
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	LOS ANGELES	VISA WAIVER PROGRAM (VWP) - REFUSAL	1

FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	LOS ANGELES	WD IN LIEU OF ER	13
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	MIAMI	PAROLED-(DT)-PORT OF ENTRY	1
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	MIAMI	WD IN LIEU OF ER	2
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	NEW YORK	EXPEDITED REMOVAL (ER)	2
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	NEW YORK	NOTICE TO APPEAR (NTA)	1
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	NEW YORK	WD IN LIEU OF ER	10
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	PORTLAND	EXPEDITED REMOVAL (ER)	1
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	PRECLEARANCE	WITHDRAWAL (WD)	44
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	PRECLEARANCE	WITHDRAWAL (WD2)	12
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	SAN DIEGO	WD IN LIEU OF ER	4
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	SAN FRANCISCO	EXPEDITED REMOVAL (ER)	3
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	SAN FRANCISCO	PAROLED-(DE)-DEFERRED INSPECTION	1
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	SAN FRANCISCO	VISA WAIVER PROGRAM (VWP) - REFUSAL	2
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	SEATTLE	EXPEDITED REMOVAL (ER)	8
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	SEATTLE	WD IN LIEU OF ER	2
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	TAMPA	EXPEDITED REMOVAL (ER)	1
FY 20-05 (FEB)	F-1 (ACADEMIC STUDENT)	TAMPA	WITHDRAWAL (WD2)	1
FY 20-06 (MAR)	F-1 (ACADEMIC STUDENT)	ATLANTA	EXPEDITED REMOVAL (ER)	1
FY 20-06 (MAR)	F-1 (ACADEMIC STUDENT)	ATLANTA	WD IN LIEU OF ER	1
FY 20-06 (MAR)	F-1 (ACADEMIC STUDENT)	BALTIMORE	EXPEDITED REMOVAL (ER)	1
FY 20-06 (MAR)	F-1 (ACADEMIC STUDENT)	BALTIMORE	WD IN LIEU OF ER	2
FY 20-06 (MAR)	F-1 (ACADEMIC STUDENT)	BOSTON	WD IN LIEU OF ER	4
FY 20-06 (MAR)	F-1 (ACADEMIC STUDENT)	BOSTON	WITHDRAWAL (WD2)	1
FY 20-06 (MAR)	F-1 (ACADEMIC STUDENT)	BUFFALO	NOTICE TO APPEAR (NTA)	1
FY 20-06 (MAR)	F-1 (ACADEMIC STUDENT)	BUFFALO	WD IN LIEU OF ER	2

FY 20-06 (MAR)	F-1 (ACADEMIC STUDENT)	BUFFALO	WITHDRAWAL (WD2)	12
FY 20-06 (MAR)	F-1 (ACADEMIC STUDENT)	CHICAGO	EXPEDITED REMOVAL (ER)	3
FY 20-06 (MAR)	F-1 (ACADEMIC STUDENT)	CHICAGO	NOTICE TO APPEAR (NTA)	1
FY 20-06 (MAR)	F-1 (ACADEMIC STUDENT)	CHICAGO	WD IN LIEU OF ER	3
FY 20-06 (MAR)	F-1 (ACADEMIC STUDENT)	DETROIT	WD IN LIEU OF ER	1
FY 20-06 (MAR)	F-1 (ACADEMIC STUDENT)	DETROIT	WITHDRAWAL (WD2)	1
FY 20-06 (MAR)	F-1 (ACADEMIC STUDENT)	HOUSTON	EXPEDITED REMOVAL (ER)	1
FY 20-06 (MAR)	F-1 (ACADEMIC STUDENT)	HOUSTON	WD IN LIEU OF ER	2
FY 20-06 (MAR)	F-1 (ACADEMIC STUDENT)	LAREDO	WD IN LIEU OF ER	1
FY 20-06 (MAR)	F-1 (ACADEMIC STUDENT)	LOS ANGELES	EXPEDITED REMOVAL (ER)	1
FY 20-06 (MAR)	F-1 (ACADEMIC STUDENT)	LOS ANGELES	VISA WAIVER PROGRAM (VWP) - REFUSAL	1
FY 20-06 (MAR)	F-1 (ACADEMIC STUDENT)	LOS ANGELES	WD IN LIEU OF ER	7
FY 20-06 (MAR)	F-1 (ACADEMIC STUDENT)	MIAMI	EXPEDITED REMOVAL-CREDIBLE FEAR (ERCF)	1
FY 20-06 (MAR)	F-1 (ACADEMIC STUDENT)	MIAMI	PAROLED-(DA)-ADVANCE PAROLE	4
FY 20-06 (MAR)	F-1 (ACADEMIC STUDENT)	MIAMI	WD IN LIEU OF ER	1
FY 20-06 (MAR)	F-1 (ACADEMIC STUDENT)	NEW YORK	EXPEDITED REMOVAL (ER)	2
FY 20-06 (MAR)	F-1 (ACADEMIC STUDENT)	NEW YORK	WD IN LIEU OF ER	4
FY 20-06 (MAR)	F-1 (ACADEMIC STUDENT)	PRECLEARANCE	WITHDRAWAL (WD)	21
FY 20-06 (MAR)	F-1 (ACADEMIC STUDENT)	PRECLEARANCE	WITHDRAWAL (WD2)	11
FY 20-06 (MAR)	F-1 (ACADEMIC STUDENT)	SAN DIEGO	WD IN LIEU OF ER	2
FY 20-06 (MAR)	F-1 (ACADEMIC STUDENT)	SAN FRANCISCO	EXPEDITED REMOVAL (ER)	4
FY 20-06 (MAR)	F-1 (ACADEMIC STUDENT)	SAN FRANCISCO	VISA WAIVER PROGRAM (VWP) - REFUSAL	4
FY 20-06 (MAR)	F-1 (ACADEMIC STUDENT)	SAN FRANCISCO	WD IN LIEU OF ER	2
FY 20-06 (MAR)	F-1 (ACADEMIC STUDENT)	SEATTLE	EXPEDITED REMOVAL (ER)	10
FY 20-06 (MAR)	F-1 (ACADEMIC STUDENT)	SEATTLE	WD IN LIEU OF ER	3

FY 20-06 (MAR)	F-1 (ACADEMIC STUDENT)	SEATTLE	WITHDRAWAL (WD2)	2
FY 20-06 (MAR)	F-1 (ACADEMIC STUDENT)	TAMPA	WD IN LIEU OF ER	1
FY 20-07 (APR)	F-1 (ACADEMIC STUDENT)	CHICAGO	EXPEDITED REMOVAL (ER)	1
FY 20-07 (APR)	F-1 (ACADEMIC STUDENT)	CHICAGO	PAROLED-(DT)-PORT OF ENTRY	2
FY 20-07 (APR)	F-1 (ACADEMIC STUDENT)	LOS ANGELES	WD IN LIEU OF ER	1
FY 20-07 (APR)	F-1 (ACADEMIC STUDENT)	MIAMI	PAROLED-(DA)-ADVANCE PAROLE	1
FY 20-07 (APR)	F-1 (ACADEMIC STUDENT)	SAN DIEGO	WITHDRAWAL (WD2)	1
FY 20-07 (APR)	F-1 (ACADEMIC STUDENT)	SAN FRANCISCO	VISA WAIVER PROGRAM (VWP) - REFUSAL	1
FY 20-08 (MAY)	F-1 (ACADEMIC STUDENT)	BALTIMORE	EXPEDITED REMOVAL (ER)	1
FY 20-08 (MAY)	F-1 (ACADEMIC STUDENT)	EL PASO	VOLUNTARY RETURN	1
FY 20-08 (MAY)	F-1 (ACADEMIC STUDENT)	HOUSTON	EXPEDITED REMOVAL (ER)	1
FY 20-08 (MAY)	F-1 (ACADEMIC STUDENT)	HOUSTON	WD IN LIEU OF ER	1
FY 20-08 (MAY)	F-1 (ACADEMIC STUDENT)	LOS ANGELES	WD IN LIEU OF ER	1
FY 20-08 (MAY)	F-1 (ACADEMIC STUDENT)	NEW YORK	WITHDRAWAL (WD2)	1
FY 20-08 (MAY)	F-1 (ACADEMIC STUDENT)	PRECLEARANCE	WITHDRAWAL (WD2)	2
FY 20-08 (MAY)	F-1 (ACADEMIC STUDENT)	SAN DIEGO	EXPEDITED REMOVAL (ER)	1
FY 20-08 (MAY)	F-1 (ACADEMIC STUDENT)	SAN FRANCISCO	WD IN LIEU OF ER	1
FY 20-08 (MAY)	F-1 (ACADEMIC STUDENT)	SEATTLE	WD IN LIEU OF ER	1

ATTACHMENT 3

From: admin@foiaonline.gov
To: [Ardalan, Sabi](#)
Subject: FOIA Fee Waiver Disposition Reached for CBP-2020-056987
Date: Thursday, June 4, 2020 11:02:54 AM

Your request for Fee Waiver for the FOIA request CBP-2020-056987 has been determined to be not applicable as the request is not billable. Additional details for this request are as follows:

- Request Created on: 05/29/2020
- Request Description: Requestors seek the disclosure of records related to individuals with F-1 student visas denied entry and/or deemed inadmissible by Customs and Border Protection at ports of entry, as well as policies regarding denial of entry, visa revocations, expedited removal, electronic device searches and social media data collection for visa holders. For the period beginning January 1, 2012 to the present, Requestors seek disclosure of certain records in the custody or control of CBP outlined in the attached FOIA regarding the expedited removal or withdrawal of admission of persons presenting F-1 visas at all U.S. ports of entry. These include: records regarding the expedited removal of persons who have presented an F-1 visa at a port of entry; records regarding the withdrawal of admission of F-1 visa holders at a port of entry; and directives, orders, training materials, memoranda, guidance, briefings, instructions, policies, procedures, rules, regulations, e-mail, other electronic communications and/or any other communications, whether issued verbally or in writing, regarding CBP's assessment of the admissibility of F-1 visa holders, any review by DHS OIG, among other documents outlined in the attached FOIA.
- Fee Waiver Original Justification: Requestors are entitled to a waiver or reduction of all fees and costs because the information sought "is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the [Requestors'] commercial interest." 5 U.S.C. § 552(a)(4)(A)(iii); 6 C.F.R. § 5.11(k) (records must be furnished without charge if the information is in the public interest, and disclosure is not in the commercial interest of the institution); 6 C.F.R. § 5.11(d). Requestors are members of the Harvard Immigration and Refugee Clinical Program (HIRC), an academic program focused on direct representation of individuals applying for U.S. asylum and related protections, as well as representation of individuals who have survived domestic violence and other crimes and/or who seek avoidance of forced removal in immigration proceedings pursuant to various forms of relief (i.e., VAWA, U-visas, Cancellation of Removal, Temporary Protected Status, etc.). HIRC is also involved in appellate and policy advocacy at the local, national, and international levels on a broad range of immigrants' rights issues. One primary goal of HIRC is to disseminate information about and make the public aware of discriminatory immigration policies, including CBP policies that unfairly target F-1 visa holders and other immigrants from Middle Eastern countries. HIRC also represents F-1 visa holders who have been wrongly denied entry in the United States by CBP. For these reasons, Requestors will make any information that they receive as a result of this FOIA request available to the public, including the press, at no cost. The issues of denial of entry, expedited removal, and visa revocation by CBP of F-1 visa holders are of significant public interest, as is the issue of how the federal government processes immigrants and non-immigrants in its custody. Requestors have undertaken this work in the public interest and not for any private commercial interest.
- Fee Waiver Disposition Reason: N/A

EXHIBIT 5

U.S. Department of Homeland Security
Washington, DC 20229



U.S. Customs and
Border Protection

DIS-3 OT:RR:RDL:FAPL
CBP-AP-2020-070610 AML

September 30, 2020

Via FOIAOnline

Ms. Sabrineh Ardalan
Harvard Immigration and Refugee Clinical Program
Harvard Law School
6 Everett Street, Suite 3106
Cambridge, MA 02138

RE: Freedom of Information Act Appeal; Remand of U.S. Customs and Border Protection Reference # CBP-2020-056987; Request for records regarding the expedited removal or withdrawal of admission of persons presenting F-1 visas at all U.S. ports of entry

Dear Ms. Ardalan:

This is in reply to your electronic submission dated August 5, 2020, with which you appeal the June 4, 2020, response to the FOIA request you made to the FOIA Division, U.S. Customs and Border Protection (CBP), CBP Reference# CBP-2020-056987, on or about May 29, 2020. CBP's FOIA Division released six pages of records in response to your initial request.

In your initial submission, you requested, for the period from January 1, 2012, through the present, disclosure of the following records in the custody or control of CBP regarding the expedited removal or withdrawal of admission of persons presenting F-1 visas ("F-1 visa holders") at all U.S. ports of entry:

I. Records regarding the expedited removal of persons who have presented an F-1 visa at a port of entry (each such instance, an "F-1 Expedited Removal"), including:

- a. The total number of F-1 Expedited Removals at each port of entry, including Boston Logan Airport
- b. The total number of F-1 Expedited Removals where the statutory basis given for the removal was INA § 212(a)(7) or a subparagraph of § 212(a)(7)

- c. The total number of F-1 Expedited Removals in which the recorded reason for the removal was that the entrant could not overcome the presumption of immigrant intent
- d. The total number of instances where CBP initiated expedited removal proceedings against an F-1 visa holder, and the F-1 visa holder was granted admission into the United States
- e. The total number of F-1 Expedited Removals where the F-1 visa holders were questioned by or interacted with an ICE agent
- f. The total number of F-1 Expedited Removals where the F-1 visa holders were questioned by or interacted with an FBI agent
- g. The total number of F-1 Expedited Removals where the F-1 visa holders' electronic devices were searched at the port of entry
- h. The total number of F-1 Expedited Removals where CBP sought the F-1 visa holders' social media identifiers
 - i. All CBP records for each F-1 Expedited Removal at Boston Logan Airport between January 1, 2012 and the present date, including records disclosing:
 - i. Date of decision of the expedited removal
 - ii. National origin of the F-1 visa holder
 - iii. Statute under which the F-1 visa holder was found to be inadmissible
 - iv. Arrival time of the F-1 visa holder's flight
 - v. Duration of time the F-1 visa holder spent in secondary screening
 - vi. Whether an ICE agent questioned the F-1 visa holder
 - vii. Whether an FBI agent questioned the F-1 visa holder
 - viii. Number of times the F-1 visa holder requested access to counsel
 - ix. Whether the F-1 visa holder was granted access to counsel
 - x. Whether the F-1 visa holder was denied access to counsel
 - xi. Whether the F-1 visa holder's electronic devices were searched
 - xii. Whether the F-1 visa holder's social media identifiers were sought
 - xiii. Name of the CBP officer who initiated the expedited removal proceedings
 - xiv. Name of the CBP shift supervisor at the time when the expedited removal proceedings were initiated

II. Records regarding the withdrawal of admission of F-1 visa holders at a port of entry (each such instance, an "F-1 Withdrawal of Entry") including:

- a. The total number of F-1 Withdrawals of Entry at each port of entry, including Boston Logan Airport

b. The total number of F-1 Withdrawals of Entry where the F-1 visa holders were questioned by or interacted with an ICE agent
c. The total number of F-1 Withdrawals of Entry where the F-1 visa holders were questioned by or interacted with an FBI agent
d. The total number of F-1 Withdrawals of Entry where the F-1 visa holders' electronic devices were searched at the port of entry
e. The total number of F-1 Withdrawals of Entry where CBP sought the F-1 visa holders' social media identifiers
f. All CBP records for each F-1 Withdrawal of Entry at Boston Logan Airport between January 1, 2012 and the present date, including:

- i. Date the withdrawal of admission was made
- ii. National origin of the F-1 visa holder
- iii. Arrival time of the F-1 visa holder's flight
- iv. Duration of time the F-1 visa holder spent in secondary screening
- v. Whether an ICE agent questioned the F-1 visa holder
- vi. Whether an FBI agent questioned the F-1 visa holder
- vii. Number of times the F-1 visa holder requested access to counsel
- viii. Whether the F-1 visa holder was granted access to counsel
- ix. Whether the F-1 visa holder was denied access to counsel
- x. Whether the F-1 visa holder's electronic devices were searched
- xi. Whether the F-1 visa holder's social media identifiers were sought
- xii. Name of the CBP officer to whom the withdrawal of admission was provided
- xiii. Name of the CBP shift supervisor at the time when the withdrawal of admission occurred

III. All directives, orders, training materials, memoranda, guidance, briefings, instructions, policies, procedures, rules, regulations, e-mail, other electronic communications and/or any other communications, whether issued verbally or in writing, regarding the following:

- a. CBP officials' assessment of the admissibility of F-1 visa holders at ports of entry, including whether to deny entry to F-1 visa holders, revoke the visas of F-1 visa holders, initiate expedited removal proceedings against F-1 visa holders, and request withdrawals of admission from F-1 visa holders
- b. Any review by the Department of Homeland Security Office of Inspector General ("OIG") or any other independent agency of ports of entry in which CBP officials have denied entry to visa holders, revoked visas of

visa holders, issued expedited removal orders, and/or requested withdrawals of admission from visa holders

- c. Any review by the OIG or any other independent agency of CBP officials' use and application of INA § 212(a)(7)
- d. Any guidance to CBP officials related to the OIG report published in January 2018 detailing CBP's failure to fully comply with court orders to enjoin implementation of Executive Order 13769 of January 27, 2017¹²
- e. Any guidance to CBP officials related to enhanced vetting of individuals from countries included in Executive Order 13780 of March 6, 2017, Presidential Proclamation 9645 of September 24, 2017, and Presidential Proclamation 9983 of January 31, 2020
- f. Any guidance to CBP officials related to the formation, development, and/or implementation of Tactical Terrorism Response Teams
- g. Any guidance regarding ICE's involvement with CBP in denying entry to visa holders, revoking visas of visa holders, issuing expedited removal orders, and/or requesting withdrawal of admission from visa holders.

In your appeal, you reiterate the request above and contend that:

The records CBP provided were not, however, complete either with respect to the time period requested or the geographic scope requested.

First, the records CBP provided only encompassed FY 2020 and some ports of entry. Yet, our request specifically asked for records regarding use of denial of entry, revocation of visas and expedited removal of persons presenting F-1 visas at any U.S. port of entry from January 2012 until present. See Attachment I.

Second, the documents provided were missing much of the detail requested. Indeed, the six pages CBP provided only contained an itemized listing out the date, type of visa, field office port of entry and disposition type (i.e. expedited removal or withdrawal). The pages did not include any information regarding the number of F-1 visa holders questioned by ICE or the FBI or subjected to searches of their electronic devices. The records did not indicate how many F-1 visa holders' social media identifiers CBP sought. The pages did not indicate how many were granted or denied access to counsel. The pages did not include the national origin of the F-1 visa holders subjected to denial of entry, revocation of visa or expedited removal. The documents do not include the names of the CBP officers or shift supervisors on duty during either the withdrawal of admission or the expedited removal.

Third, despite the clear request included in the FOIA request, the pages produced by CBP do not contain any directives, orders, training materials, memoranda, guidance, briefings, instructions, policies, procedures, rules, regulations, e-mail, other electronic communications and/or any other communications regarding CBP officials' assessment of the admissibility of F-1 visa holders at ports of entry; review by the Department of Homeland Security Office of Inspector General (OIG) or any other independent agency of ports of entry in which CBP officials have denied entry to visa holders; review by the OIG or any other independent agency of CBP officials' use and application of INA § 212(a)(7); guidance to CBP officials related to the OIG report published in January 2018 detailing CBP's failure to fully comply with court orders to enjoin implementation of Executive Order 13769 of January 27, 2017 or related to enhanced vetting of individuals from countries included in Executive Order 13780 of March 6, 2017, Presidential Proclamation 9645 of September 24, 2017, and Presidential Proclamation 9983 of January 31, 2020; guidance to CBP officials related to the formation, development, and/or implementation of Tactical Terrorism Response Teams; or guidance regarding ICE's involvement with CBP in denying entry to visa holders, revoking visas of visa holders, issuing expedited removal orders, and/or requesting withdrawal of admission from visa holders. The documents produced thus do not reflect a release of the documents in "their entirety" with "no delegations of exemptions," and HIRC hereby appeals CBP's response as insufficient. Given the mismatch between the documents produced and the documents requested, it is clear that CBP failed to conduct an adequate search, 5 U.S.C. § 552(a)(3)(A), and its response was insufficient to meet the "reasonable effort" requirement in 5 U.S.C. § 552(a)(3)(B)--(C). The fact that CBP was able to produce documents relating to FY2020 means that the agency keeps some of the type of documentation requested but failed to produce it for the entire requested time period.

In response to your August 5, 2020, submission, we contacted CBP's FOIA Division and the Office of Field Operations (OFO). It appears that, while initial searches were begun, the searches were not completed prior to the closure of your August 2020 initial FOIA request.

The administrative appeal process is important to agencies and requesters because the appeal process provides an agency with an opportunity to review its initial action taken in response to a request to determine whether corrective steps are necessary. The appeals process allows CBP to correct mistakes made at lower levels and thereby obviates unnecessary judicial review. In this case, there is no administrative record to review because CBP has not yet completed its searches for and review of records in response to the request.

Accordingly, we are remanding your request to CBP's FOIA Division for processing with instructions that the FOIA Division should reopen the case and keep you apprised of its progress within twenty (20) days from the date of this letter. If the FOIA Division is unable to process the request within twenty (20) days, the FOIA Division should advise you of the time required to respond to the request. Given the breadth and nature of the request, it is unlikely that the final response to the initial request will be processed within the temporal parameters set forth in the FOIA.

You may immediately challenge this disposition in district court. Pursuant to 5 U.S.C. §552(a)(4)(B), you may do so in the U.S. District Court in the district in which you reside or have a principle place of business, or in which the agency records are situated, or in the U.S. District Court for the District of Columbia.

Alternatively, the Office of Government Information Services (OGIS) offers 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. You can contact OGIS in any of the following ways:

National Archives and Records Administration
8601 Adelphi Road (OGIS)
College Park, MD 20740-6001

E-mail: ogis@nara.gov
Telephone: 202-741-5770 - Toll-free: 1-877-684-6448
Facsimile: 202-741-5769

Sincerely,

Shari Suzuki, Chief

FOIA Appeals, Policy and Litigation Branch

EXHIBIT 6

From: admin@foiaonline.gov
To: [Ardalan, Sabi](#)
Subject: FOIA Fee Waiver Disposition Reached for CBP-2020-056987
Date: Thursday, June 4, 2020 11:02:54 AM

Your request for Fee Waiver for the FOIA request CBP-2020-056987 has been determined to be not applicable as the request is not billable. Additional details for this request are as follows:

- Request Created on: 05/29/2020
- Request Description: Requestors seek the disclosure of records related to individuals with F-1 student visas denied entry and/or deemed inadmissible by Customs and Border Protection at ports of entry, as well as policies regarding denial of entry, visa revocations, expedited removal, electronic device searches and social media data collection for visa holders. For the period beginning January 1, 2012 to the present, Requestors seek disclosure of certain records in the custody or control of CBP outlined in the attached FOIA regarding the expedited removal or withdrawal of admission of persons presenting F-1 visas at all U.S. ports of entry. These include: records regarding the expedited removal of persons who have presented an F-1 visa at a port of entry; records regarding the withdrawal of admission of F-1 visa holders at a port of entry; and directives, orders, training materials, memoranda, guidance, briefings, instructions, policies, procedures, rules, regulations, e-mail, other electronic communications and/or any other communications, whether issued verbally or in writing, regarding CBP's assessment of the admissibility of F-1 visa holders, any review by DHS OIG, among other documents outlined in the attached FOIA.
- Fee Waiver Original Justification: Requestors are entitled to a waiver or reduction of all fees and costs because the information sought "is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the [Requestors'] commercial interest." 5 U.S.C. § 552(a)(4)(A)(iii); 6 C.F.R. § 5.11(k) (records must be furnished without charge if the information is in the public interest, and disclosure is not in the commercial interest of the institution); 6 C.F.R. § 5.11(d). Requestors are members of the Harvard Immigration and Refugee Clinical Program (HIRC), an academic program focused on direct representation of individuals applying for U.S. asylum and related protections, as well as representation of individuals who have survived domestic violence and other crimes and/or who seek avoidance of forced removal in immigration proceedings pursuant to various forms of relief (i.e., VAWA, U-visas, Cancellation of Removal, Temporary Protected Status, etc.). HIRC is also involved in appellate and policy advocacy at the local, national, and international levels on a broad range of immigrants' rights issues. One primary goal of HIRC is to disseminate information about and make the public aware of discriminatory immigration policies, including CBP policies that unfairly target F-1 visa holders and other immigrants from Middle Eastern countries. HIRC also represents F-1 visa holders who have been wrongly denied entry in the United States by CBP. For these reasons, Requestors will make any information that they receive as a result of this FOIA request available to the public, including the press, at no cost. The issues of denial of entry, expedited removal, and visa revocation by CBP of F-1 visa holders are of significant public interest, as is the issue of how the federal government processes immigrants and non-immigrants in its custody. Requestors have undertaken this work in the public interest and not for any private commercial interest.
- Fee Waiver Disposition Reason: N/A

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

1. Title of case (name of first party on each side only) Harvard Immigration and Refugee Clinical Program v.
United States Customs and Border Protection
2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).
- ☐ I. 160, 400, 410, 441, 535, 830*, 835*, 850, 880, 891, 893, R.23, REGARDLESS OF NATURE OF SUIT.
- ☒ II. 110, 130, 190, 196, 370, 375, 376, 440, 442, 443, 445, 446, 448, 470, 751, 820*, 840*, 895, 896, 899.
- ☐ III. 120, 140, 150, 151, 152, 153, 195, 210, 220, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 367, 368, 371, 380, 385, 422, 423, 430, 450, 460, 462, 463, 465, 480, 485, 490, 510, 530, 540, 550, 555, 560, 625, 690, 710, 720, 740, 790, 791, 861-865, 870, 871, 890, 950.
- *Also complete AO 120 or AO 121. for patent, trademark or copyright cases.
3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.
4. Has a prior action between the same parties and based on the same claim ever been filed in this court?
- YES ☐ NO ☒
5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)
- YES ☐ NO ☒
- If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?
- YES ☐ NO ☐
6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?
- YES ☐ NO ☒
7. Do all of the parties in this action, excluding governmental agencies of the United States and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).
- YES ☒ NO ☐
- A. If yes, in which division do all of the non-governmental parties reside?
- Eastern Division ☒ Central Division ☐ Western Division ☐
- B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?
- Eastern Division ☐ Central Division ☐ Western Division ☐
8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)
- YES ☐ NO ☐

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME Sabrineh ArdalanADDRESS 6 Everett Street, Suite 3103 (WCC), Cambridge, MA 02138TELEPHONE NO. 617-384-7504

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Harvard Immigration and Refugee Clinical Program

(b) County of Residence of First Listed Plaintiff Middlesex County, MA
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Sabrineh Ardalan, Sameer Ahmed, 6 Everett St., Suite
3103 (WCC), Cambridge, MA 02138, 617-384-7504**DEFENDANTS**

United States Customs and Border Protection

County of Residence of First Listed Defendant District of Columbia
(IN U.S. PLAINTIFF CASES ONLY)NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input checked="" type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Freedom of Information Act, 5 U.S.C. § 552

Brief description of cause:

FOIA complaint regarding CBP's failure to produce requested files involving individuals from Middle East with valid visa and other documentation

VII. REQUESTED IN COMPLAINT:☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. **DEMAND \$**

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE

SIGNATURE OF ATTORNEY OF RECORD

Sabrineh Ardalan

02/23/2022

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____