

# EXHIBIT A



U.S. Customs and Border Protection

# Official Trusted Traveler Program Website | Department of Homeland Security

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Apr 27, 2022

EoA GEORGE BUSH INTERCONTINENTAL AIRPORT  
PO Box 60457  
Houston, TX 77205 0457  
US

ODYSSEUS DEMETRIADI

[REDACTED]

[REDACTED] Your Global Entry Program Membership #980210357

Dear ODYSSEUS DEMETRIADI:

Thank you for your participation in the Global Entry program of U S Customs and Border Protection (CBP)

Global Entry is a voluntary program available to travelers that pass a comprehensive background investigation. Applicants found to be ineligible for Global Entry participation may still be permitted to enter into the United States although they will not be permitted to use the Global Entry dedicated lanes.

We regret to inform you that your membership in Global Entry has been revoked for the following reason(s)

You do not meet eligibility requirements.

If you believe the decision was based upon inaccurate or incomplete information, you may be eligible to request reconsideration through the Trusted Traveler Program application website: <https://ttp.dhs.gov/>.

Reconsideration Requests and attachments to the Ombudsman should be in English and must include the following details:

1. Date of denial and denial reason(s) from this letter
2. Summary of information to further clarify a record or explain an incident or arrest;

3. Court disposition documentation in PDF format for all arrests or convictions, even if expunged; and/or
4. Other supporting documentation you feel may influence the Ombudsman's decision. Supported formats: PDF, DOCX, DOC, PNG, JPEG, and GIF.

The review by the Ombudsman will be based on the information provided by you and should include any information to further clarify a record, explain an incident or arrest, or show the disposition of criminal charges. Please remember that the following circumstances may make you ineligible for participation:

1. Providing false or incomplete information on the application;
2. Convictions for any criminal offense or pending criminal charges to include outstanding warrants;
3. Violations of any customs, immigration, or agriculture regulations or laws in any country;
4. Inadmissibility to the United States under immigration laws;
5. Receipt of a criminal pardon from any country; or
6. Other circumstances that indicate to CBP that you have not qualified as "low risk."

CBP is committed to the fair, impartial and respectful treatment of all members of the trade and traveling public, and has memorialized its commitment to nondiscrimination in existing policies, including the February 2014 CBP Policy on Nondiscrimination in Law Enforcement Activities and all other Administered Programs.

Sincerely,

Supervisor, Global Entry Enrollment Center  
U.S. Customs and Border Protection

# EXHIBIT B

[REDACTED]

Date May 30th, 2022  
To US Customs Border Protection Office  
From Odysseus Demetriadi  
Subject Global Entry #980-210-357 - Reinstatement Request

To Whom It May Concern:

On Friday, April 22nd, 2022, my longstanding membership with the Global Entry program was revoked for unknown reasons. A week later, Tatiana Wickert Braun, my girlfriend, partner and Chief Financial Officer of my business had her Global Entry Membership revoked as well. Ms Braun's member #984-077-119.

I am hereby requesting that my Global Entry Membership be reinstated as I have not broken any of the membership rules which would make me ineligible.

I want to apologize in advance for the length of this letter and the number of documents uploaded but this situation is very critical to my day-to-day life and operations of my business and I am going to address and upload any and all information that I feel will be important in the decision to reinstate my Global Entry membership.

**Overview**

1. I understand and respect that the Global Entry program is a privilege and this privilege has allowed me to move my business, Tequila Blues, Inc (TBI) from Los Angeles to Tijuana, Mexico back in Jan 2019.
2. Having a Global Entry Membership is critical to the day-to-day operations of my business. Without this membership, I could not operate my business in Tijuana, Mexico.
3. I am a United States of America citizen, born in Greenwich, CT.
4. I have been a business owner most of my adult life
5. My primary and sole income in the USA is from [REDACTED]
6. I have been the owner of [REDACTED] since June 2012.
7. [REDACTED] manufactures tee-shirts and the like for companies in the USA and [REDACTED] sales over the last 24 months has been in excess of [REDACTED]
8. My entire operation, including my sub-contract employees, are based in Tijuana, Mexico. I have no office, warehouse or employees in the USA, with the exception of my partner and girlfriend, [REDACTED], who lives with me and works from our home on most days of the week.
9. [REDACTED] mailing address is located at [REDACTED]  
[REDACTED] rents office space from [REDACTED]  
[REDACTED] USA-based company, is owned by [REDACTED] Mr [REDACTED] also the owner of the Mexico-based company, [REDACTED] 1
11. I own and reside at [REDACTED]. I have owned this home since 2001. The current equity in this property is in excess of [REDACTED]

**Reason for Revocation**

1. On April 27th, 2022, I received a formal notice that my Global Entry was revoked (exhibit #14). After discussion with Mr [REDACTED] I assume it was revoked because of a totally unrelated incident involving a terminated employee of [REDACTED], while worked in the same 60,000 sq/ft building among the 400 + employees.
2. When I was in secondary inspection, the office asked if I knew a [REDACTED] and I replied yes but at that time, I was not aware of the possible connection with [REDACTED] as he went by [REDACTED], not [REDACTED]
3. Mr [REDACTED] is an adult, and he is independently responsible for all his own actions.
4. Mr [REDACTED] was one of 400 + employees that is employed by Mr [REDACTED]
5. Mr [REDACTED] was never employed or involved in any of the [REDACTED] day-to-day operations.
6. Mr [REDACTED] would often drive Mr [REDACTED] car, a [REDACTED] through the Sentri lane into the USA
7. In October of 2020, I ran into a large pot-hole while driving in Tijuana that caused damage to one of the wheels, which required repair. (Note: the repair shop listed the incorrect model year of the car - receipt attached Exhibit #1). The car is a 2014 Mitsubishi, owned by Ms. Braun. (exhibit #12). The repair took about a week and during that time, I was borrowing Mr [REDACTED] Black vehicle, which as noted above, was the same vehicle that Mr [REDACTED] would often drive through the Sentri lane. Here in lines the connection.

**Reason for Reinstatement**

1. I have done nothing wrong. I am innocent. I am a law abiding USA citizen and would never do anything to disrespect or harm my country, let alone my reputation.
2. I have been a member of the program for over 10 years and to date have never had any warning or infraction for any reason.
3. I have never been convicted of any crime
4. I nor my business shares any address with Mr [REDACTED]
5. I asked Mr [REDACTED] to give me human resource documents in related to [REDACTED]
  - a. Mr [REDACTED] was terminated by [REDACTED] on December 10, 2021 (exhibit #2).
  - b. Mr [REDACTED] last payroll time sheet with [REDACTED] (exhibit #16)
  - c. Mr [REDACTED] last payroll check with [REDACTED] (exhibit #17)
  - d. Payroll report the week after Mr [REDACTED] was terminated by [REDACTED], showing Mr [REDACTED] no longer being employed by [REDACTED] (exhibit #18)
6. I have not seen nor talked to Mr [REDACTED] since December 2021
7. I have a personal net worth in excess of [REDACTED]
8. My gross income has been [REDACTED] since Jan 2019 (exhibit #3, 4, 5, 6)
9. I have yet to file my 2021 tax return but I have made a payment of [REDACTED] to the IRS (exhibit #6)
10. May 2022 invoices from [REDACTED] to TBI (doing business as Lave Apparel Industries) (exhibit #19 to #23).
11. Between my personal checking and savings accounts, the average daily balance is in excess of [REDACTED] (Exhibit 7,8,9). The [REDACTED].
12. The T [REDACTED] business bank account has an average daily balance of over [REDACTED]. (Exhibit #10)
13. There are multiple payments made monthly between [REDACTED], [REDACTED], which is owned by [REDACTED] (Exhibit #10 dated April 1st, April 4th, April 8th, April 22nd, April 29th)
14. [REDACTED] Business License (exhibit #11)
15. California Secretary of State showing me as the owner of T [REDACTED] (exhibit #13)
16. **There are no cash transactions in or out of either my business or personal account as I do not do any business in cash. All transactions are via Check, Wire or ACH, which can be seen on the bank statements.**

17. I earn a very good income from my business [REDACTED] my personal finances position is very strong. I do not live paycheck to paycheck and I am never short on money to pay my personal bills. I would never risk my way of life doing anything illegally as it would jeopardize my way of life, my business, my nine (9) year relationship with Ms Braun and the financial support of my elderly mother who is in a homecare facility.
18. I do not need to earn additional income by doing anything illegal out of desperation to survive financially and to jeopardize my way of life.

**I believe in the ideals and justice of the USA. Would it fair for me to be held responsible or be punished for something I did not do and beyond my knowledge for the independent actions of an individual who was one of 400 + individuals working in a 60,000 sq/ft warehouse and office that I had nothing to do with?**

**I did not personally or directly violate any Customs Rules & Regulations.**

**I request with great appreciation that the United States Customs & Border Protection Agency reconsiders my status and reinstate my Global Entry membership.**

**Exhibits**

Uploaded are the following exhibits:

1

[REDACTED]

# EXHIBIT C



# National Security Law Firm

1250 Connecticut Avenue, NW  
Suite 700  
Washington, D.C. 20036

202-600-4996


Fax 202-545-6318

Info@NationalSecurityLawFirm.com

*\*Admitted in New Jersey, New York, Hawaii, California, Ohio, Minnesota, and Washington D.C*

February 10, 2023

Privacy Act Request-FOIA

Re: Our Client: Odysseus Demetriadi  
FOIA-Privacy Act Request  
Global Entry Membership ID: 

Dear Sir/Madam:

Please be advised that I have been retained to represent Odysseus Demetriadi with respect to a FOIA-Privacy Act request. On his behalf, I am requesting all records pertaining to Odysseus Demetriadi held by the United States Customs and Border Patrol. **Please note that our request for records includes all records CBP may have, including, but not limited to Trusted Traveler inquiries, secondary stops, RAW, border crossings, etc.**

## Description of Records Sought:

- 1) All interagency and intra-agency correspondence pertaining to the above.
- 2) All interagency and intra-agency records related to the individual.
- 3) All investigation and standard forms pertaining to the above.

## Odysseus Demetriadi's verification of identity:

Full Name: ODYSSEUS DEMETRIADI

## Agreement to pay fees:

My office agrees to pay all applicable fees in accordance with federal law.

## Identity source documents:

Attached.


**Preferred delivery method:**

Please send all disclosures to 1250 Connecticut Avenue, Suite 700, Washington, D.C. 20036.

**Odysseus Demetriadi's authorization for release:**

I authorize information pertaining to me to be released to my attorneys and staff at the National Security Law Firm, my legal counsel in this matter. I understand that I will not be furnished a duplicate copy of any disclosures. Pursuant to 5 USC 552a(b), I authorize the Customs and Border Patrol to release my records to the National Security Law Firm.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, that I am the person described above. I understand that any falsification of this statement is punishable under the provisions of 18 USC 1001 by a fine of not more than \$10,000, or by imprisonment for not more than five years or both, and that requesting or obtaining any record(s) under false pretenses is punishable under the provisions of 5 USC 552a(i)(3) by a fine of not more than \$5,000.

  
\_\_\_\_\_  
Odysseus Demetriadi

2-10-23  
Date

Thank you for your attention to this matter.

Very truly yours,

*/s/ Brett J. O'Brien*

Brett John O'Brien

BO/nl

cc: Odysseus Demetriadi

# EXHIBIT D



Nicolette Estok <nicolette@nationalsecuritylawfirm.com>

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## CBP FOIA - CBP-FO-2023-041132

1 message

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cbpfoia@cbp.dhs.gov <noreply@securerelease.us>

Wed, Jul 5, 2023 at 3:53 PM

Reply-To: cbpfoia@cbp.dhs.gov

To: nicolette@national securitylawfirm.com

Nicolette Lewandowski  
National Security Law Firm  
1250 Connecticut Avenue NW  
Suite 700  
Washington, District of Columbia 20036

07/05/2023

CBP-FO-2023-041132

Dear Nicolette Lewandowski:

This notice acknowledges receipt of your Freedom of Information Act (FOIA) request to U.S. Customs and Border Protection (CBP) received on 2/13/2023 for Odysseus Demetriadi. Please use the following unique FOIA tracking number CBP FO 2023 041132 to track the status of your request.

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

Consistent with 6 C.F.R. Part 5.55(a) of the DHS FOIA regulation, CBP processes FOIA requests according to their order of receipt. Although CBP's goal is to respond within 20 business days of receipt of your request, FOIA does permit a 10-day extension of this time period in certain circumstances pursuant to 6 C.F.R. Part 5.55(c). Please note that due to the increasing number of FOIA requests received by this office, and a current backlog, it may take 6-9 months to receive a response to your FOIA request. We are diligently working to process each request as quickly as possible, in the order they were received. We appreciate your patience during this time.

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

Sincerely,  
U.S. Customs and Border Protection

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# EXHIBIT E



Nicolette Estok <nicolette@nationalsecuritylawfirm.com>

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## CBP FOIA - CBP-FO-2023-041132

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cbpfoia@cbp.dhs.gov <noreply@securerelease.us>  
Reply-To: cbpfoia@cbp.dhs.gov  
To: nicolette@nationalsecuritylawfirm.com

Wed, Aug 30, 2023 at 10:24 AM

Nicolette Lewandowski  
National Security Law Firm  
1250 Connecticut Avenue NW  
Suite 700  
Washington, District of Columbia 20036

08/30/2023

CBP-FO-2023-041132

Dear Nicolette Lewandowski,

This is a final response to your Freedom of Information Act (FOIA) request to U.S. Customs and Border Protection (CBP) requesting CBP maintained records. Specifically, you requested Plea e be advised that I have been retained to represent Odysseus Demetriadi with respect to a FOIA-Privacy Act request. On his behalf, I am requesting all records pertaining to Odysseus Demetriadi held by the United States Customs and Border Patrol.

Plea e note that our request for records include all records CBP may have, including, but not limited to Tru ted Traveler inquiries, secondary stops, RAW, border crossings, etc., and all other records detailed our formal letter of request that is attached.

We conducted a comprehensive search of files within the CBP databases for records that would be responsive to your request. Unfortunately, we were unable to locate or identify any responsive records, based upon the information you provided in your request.

Note: CBP does not have complete records of apprehensions made by Border Patrol before 2000. Records of apprehensions made by Border Patrol before 2000 may be available in the A-File maintained by USCIS.

This complete the CBP response to your request. You may contact CBP' FOIA Public Liaison, Charly e Ho kin , by sending an email via your SecureRelease account, mailing a letter to [90 K St, NE MS 1181, Washington DC, 20229](#) or by calling 202-325-0150. (If you need telecommunication relay service (TRS) assistance to communicate with the CBP FOIA Office and you are in the United States, please dial 711 to obtain TRS assistance and notify the Communications Assistant that you want to contact the CBP FOIA Office at the telephone number (202) 325 0150) The FOIA Public Liaison 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 FO 2023 041132 on any future correspondence to CBP related to this 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 requirement of the FOIA. This is a standard notification that is given to all our requester and should not be taken as an indication that excluded records do, or do not, exist.

If you are not satisfied with the response to this request, you have a right to appeal the final disposition. Should you wish to do so, you must file your appeal within 90 days of the date of this letter following the procedure outlined in the DHS regulations at Title 6 C.F.R. §5.8. Please include as much information as possible to help us understand the grounds for your appeal. You should submit your appeal via SecureRelease. If you do not have computer access, you may send

your appeal and a copy of this letter to: FOIA Appeals, Policy and Litigation Branch, U.S. Customs and Border Protection, 90 K Street, NE, 10th Floor, Washington, DC 20229-1177. Your envelope and letter should be marked "FOIA Appeal." Copies of the FOIA and DHS regulation are available at [www.dhs.gov/foia](http://www.dhs.gov/foia). Additional information can be found at the following link [https://www.cbp.gov/sites/default/files/assets/documents/2019-Dec/definitions-exemptions-foia\\_0.pdf](https://www.cbp.gov/sites/default/files/assets/documents/2019-Dec/definitions-exemptions-foia_0.pdf).

Additionally, you have a right to seek dispute resolution services from the Office of Government Information Services (OGIS) which mediate disputes between FOIA requester and Federal agencies as a non-exclusive alternative to litigation. If you are requesting access to your own records (which is considered a Privacy Act request), you should know that OGIS does not have the authority to handle requests made under the Privacy Act of 1974. You may contact OGIS as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740 6001, e mail at [ogis@nara.gov](mailto:ogis@nara.gov); telephone at 202 741 5770; toll free at 1 877 684 6448; or facsimile at 202-741-5769.

Please note that this message has been sent from an unmonitored e-mail account. Any messages sent to this account will not be read

Sincerely,

U S Customs and Border Protection

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# EXHIBIT F



# National Security Law Firm

1250 Connecticut Avenue, NW  
Suite 700  
Washington, D.C. 20036

202-600-4996

Fax 202-545-6318

Info@NationalSecurityLawFirm.com

*Admitted in New Jersey, New York, Hawaii, California, Ohio, Minnesota, and Washington D.C*

August 31, 2023

FOIA Appeal

Re: Our Client, Odysseus Demetriadi  
FOIA Request CBP-FO-2023-041132

Please be advised that I have been retained to represent Odysseus Demetriadi with respect to his FOIA request, to include the above referenced FOIA request for his pertinent records.

If U.S. Customs and Border Protection continues to withhold the documents to which Odysseus Demetriadi is entitled, the agency should expect a civil lawsuit filed in accordance with 5 USC 552a(g)(1)(B) or (D), to include reasonable attorney fees and litigation costs under 5 USC 552a(g)(2)(B).

Both the Federal and State governments have, time and again, reiterated the importance of the Freedom of Information Act and the Privacy Act. The Judiciary has done the same. Any ambiguity must be resolved in favor of disclosure and transparency.

There is nothing insufficient or ambiguous about Odysseus Demetriadi's request. 5 USC 552a(d)(1) mandates that CBP disclose the requested records. There is no pertinent exception.

Odysseus Demetriadi, once again, requests all of the documents requested. If they are denied once again, CBP should expect a lawsuit.

Very truly yours,

*/s/Brett J. O'Brien*

Brett John O'Brien

BO/npl

cc: Odysseus Demetriadi

# EXHIBIT G



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Date July 2nd 2022  
To CBP Trusted Traveler Ombudsman  
Subject Global Entry number [REDACTED] - Reconsideration Request

To Whom It May Concern:

On 04/27/22 I received an email from CBP saying my Application status had changed - my Global Entry had been revoked. I am not aware of having done anything to cause the revocation and I have not been able to get any further details on the denial reason up to today. That being said, I will provide some documentation and explanation on what I am assuming is the reason : Revocation due to association with someone that has violated the program.

Here are the facts :

- My Global Entry got revoked on 04/27/22;
- My partner's Global Entry got revoked on 04/22/22. That is Odysseus Demetriadi, Global Entry number [REDACTED]; by assumption, it seems that the revocations are related. I am attaching the letter he sent for his reinstatement request as it provides further details;
- We later found out that our friend [REDACTED] Global Entry had also been revoked;
- We then also found out that [REDACTED] and former employee [REDACTED] had crossed the border from Mexico to the USA with illegal substances.
- Sometime in the past [REDACTED] used [REDACTED] car, a black Nissan [REDACTED];
- I own a [REDACTED] that broke down in Tijuana in 2020. At that particular time, Odysseus and I were going to meet with [REDACTED] for a weekend vacation in the wine country. Since my car had to stay at the shop in Tijuana, we used [REDACTED] Nissan Maxima for a week or so until my car got fixed. And that is how I think I got somehow connected to [REDACTED] incident.

These are the documents I'm attaching for your reference:

1. Odysseus Demetriadi's reconsideration letter
2. My tax returns from 2021
3. My [REDACTED] registration
4. Auto repair receipt from when we used the Nissan Altima

Based on the above, this is my humble request for a reconsideration of the Global Entry Program as I did not violate the Program.

Feel free to contact me should you have any questions or concerns.

Thank you for your time and consideration

Tatiana Braun

# EXHIBIT H

Tatiana Braun



01/13/2023

CBP-2022-077932

Dear Tatiana Braun,

A search of CBP databases produced records responsive to your Freedom of Information Act (FOIA) request CBP-2022-077932, requesting records maintained by CBP.

CBP has considered the foreseeable harm standard when reviewing the record set and have applied the FOIA exemptions as required by the statute and the Attorney General’s guidance. CBP has determined that the responsive records are partially releasable, pursuant to Title 5 U.S.C. §552 and have applied the appropriate exemptions notated below:

Section 552 (FOIA)

(b)(1)  (b)(2)  (b)(3)  (b)(4)  (b)(5)  (b)(6)

(b)(7)(A)  (b)(7)(B)  (b)(7)(C)  (b)(7)(D)  (b)(7)(E)  (b)(7)(F)

(b)(3) Statute 49 U.S.C. §114(s)

A description of the [exemptions](#) applied can be found by clicking the hyperlink. **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.

**Additional Information about CBP’s Trusted Traveler Programs**

This letter relates only to your request for access to CBP records and this office only has the ability and authority to obtain and release records to you in response to your FOIA request. We do not make decisions regarding eligibility for the agency’s trusted traveler programs nor do we have the ability or authority to modify the decision of the Trusted Traveler Program office.

The Trusted Traveler Programs are voluntary, “zero tolerance” programs available only to persons who pass a comprehensive background check. Applicants may not qualify for the program if they:

- Provide false or incomplete information on the application;
- Have been convicted of any criminal offense or are subject to pending criminal charges, to include outstanding warrants;
- Have been found in violation of any customs, immigration, or agriculture regulations or laws in any country;
- Are the subject of an investigation by any federal, state, or local law enforcement agency;
- Are inadmissible to the United States under immigration regulations, including applicants with approved waivers of inadmissibility or parole documentation; or
- Cannot satisfy CBP of their low-risk status or meet other program requirements.

If you have ongoing concerns about your trusted traveler program membership status, you may address the issue by making an appointment at a Trusted Traveler Enrollment Center or by contacting the trusted traveler program Ombudsman at: <https://ttp.cbp.dhs.gov>.

Pursuant to DHS Instruction 262-11-004, FOIA Officers at DHS have been instructed to withhold personally identifiable information (PII) and sensitive personally identifiable information (SPII) of DHS personnel unless a determination is made that the disclosure does not raise security or privacy concerns, or if those concerns are outweighed by any public interest in that information. [This policy is available online](#). Under this policy, the names of senior leaders, spokespersons, and political appointees are generally releasable. With respect to this FOIA request, DHS may have applied FOIA Exemption 6 to protect PII of DHS employees, including names and contact information. To the extent that has DHS

withheld employee PII within these records, it has been determined that the employee(s) has/have substantial and legitimate privacy interests and that these interests are not outweighed by any public interest in the operations of the Department.

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 notice a recent date on the attached records. This is the date our processor queried the record in response to your FOIA request. For clarity, it is not the date the agency first created the record.

This completes the CBP response to your request. 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. (If you need telecommunication relay service (TRS) assistance to communicate with the CBP FOIA Office and you are in the United States, please dial 711 to obtain TRS assistance and notify the Communications Assistant that you want to contact the CBP FOIA Office at the telephone number (202) 325-0150). The FOIA Public Liaison 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-2022-077932 on any future correspondence to CBP related to this request.

If you are not satisfied with the response to this request, you have a right to appeal the final disposition. Should you wish to do so, you must file your appeal within 90 days of the date of this letter following the procedures outlined in the DHS regulations at Title 6 C.F.R. §5.8. Please include as much information as possible to help us understand the grounds for your appeal. You should submit your appeal via FOIAonline by clicking on the "Create Appeal" button that appears when you view your initial request. If you do not have a FOIAonline account, you must send your appeal and a copy of this letter to: FOIA Appeals, Policy and Litigation Branch, U.S. Customs and Border Protection, 90 K Street, NE, MS1177, Washington, DC 20229-1177. Your envelope and letter should be marked "FOIA Appeal." Copies of the FOIA and DHS regulations are available at [www.dhs.gov/foia](http://www.dhs.gov/foia). Additional information can be found at the following link [https://www.cbp.gov/sites/default/files/assets/documents/2019-Dec/definitions-exemptions-foia\\_0.pdf](https://www.cbp.gov/sites/default/files/assets/documents/2019-Dec/definitions-exemptions-foia_0.pdf).

Additionally, you have a right to seek dispute resolution services from the Office of Government Information Services (OGIS) which mediates disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. If you are requesting access to your own records (which is considered a Privacy Act request), you should know that OGIS does not have the authority to handle requests made under the Privacy Act of 1974. You may contact OGIS as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at [ogis@nara.gov](mailto:ogis@nara.gov); telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769. Please note that contacting the CBP FOIA Public Liaison or OGIS **does not** stop the 90-day appeal clock and **is not** a substitute for filing an administrative appeal.

Sincerely,

U.S. Customs and Border Protection

# EXHIBIT I



# National Security Law Firm

1250 Connecticut Avenue, NW  
Suite 700  
Washington, D.C. 20036

202-600-4996

Fax 202-545-6318

Info@NationalSecurityLawFirm.com

*Admitted in New Jersey, New York, Hawaii, California, Ohio, Minnesota, and Washington D.C*

February 14, 2023

FOIAAppeal

Re: Our Client, Tatiana Braun

FOIA Request [REDACTED]

Please be advised that I have been retained to represent Tatiana Braun with respect to her FOIA request, to include the above referenced FOIA request for her pertinent records.

If U.S. Customs and Border Protection continues to withhold the documents to which Tatiana Braun is entitled, the agency should expect a civil lawsuit filed in accordance with 5 USC 552a(g)(1)(B) or (D), to include reasonable attorney fees and litigation costs under 5 USC 552a(g)(2)(B).

Both the Federal and State governments have, time and again, reiterated the importance of the Freedom of Information Act and the Privacy Act. The Judiciary has done the same. Any ambiguity must be resolved in favor of disclosure and transparency.

There is nothing ambiguous about Tatiana Braun's request. 5 USC 552a(d)(1) mandates that CBP disclose the requested records. There is no pertinent exception.

Tatiana Braun, once again, requests all of the documents requested. If they are denied once again, CBP should expect a lawsuit.

Very truly yours,

*/s/Brett J. O'Brien*

Brett John O'Brien

BO/npl

cc: Tatiana Braun

# EXHIBIT J

Tatiana Braun



01/13/2023

CBP-2022-077932

Dear Tatiana Braun,

A search of CBP databases produced records responsive to your Freedom of Information Act (FOIA) request CBP-2022-077932, requesting records maintained by CBP.

CBP has considered the foreseeable harm standard when reviewing the record set and have applied the FOIA exemptions as required by the statute and the Attorney General's guidance. CBP has determined that the responsive records are partially releasable, pursuant to Title 5 U.S.C. §552 and have applied the appropriate exemptions notated below:

Section 552 (FOIA)

(b)(1)  (b)(2)  (b)(3)  (b)(4)  (b)(5)  (b)(6)  
 (b)(7)(A)  (b)(7)(B)  (b)(7)(C)  (b)(7)(D)  (b)(7)(E)  (b)(7)(F)  
 (b)(3) Statute 49 U.S.C. §114(s)

A description of the [exemptions](#) applied can be found by clicking the hyperlink. **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.

**Additional Information about CBP's Trusted Traveler Programs**

This letter relates only to your request for access to CBP records and this office only has the ability and authority to obtain and release records to you in response to your FOIA request. We do not make decisions regarding eligibility for the agency's trusted traveler programs nor do we have the ability or authority to modify the decision of the Trusted Traveler Program office.

The Trusted Traveler Programs are voluntary, "zero tolerance" programs available only to persons who pass a comprehensive background check. Applicants may not qualify for the program if they:

- Provide false or incomplete information on the application;
- Have been convicted of any criminal offense or are subject to pending criminal charges, to include outstanding warrants;
- Have been found in violation of any customs, immigration, or agriculture regulations or laws in any country;
- Are the subject of an investigation by any federal, state, or local law enforcement agency;
- Are inadmissible to the United States under immigration regulations, including applicants with approved waivers of inadmissibility or parole documentation; or
- Cannot satisfy CBP of their low-risk status or meet other program requirements.

If you have ongoing concerns about your trusted traveler program membership status, you may address the issue by making an appointment at a Trusted Traveler Enrollment Center or by contacting the trusted traveler program Ombudsman at: <https://ttp.cbp.dhs.gov>.

Pursuant to DHS Instruction 262-11-004, FOIA Officers at DHS have been instructed to withhold personally identifiable information (PII) and sensitive personally identifiable information (SPII) of DHS personnel unless a determination is made that the disclosure does not raise security or privacy concerns, or if those concerns are outweighed by any public interest in that information. [This policy is available online](#). Under this policy, the names of senior leaders, spokespersons, and political appointees are generally releasable. With respect to this FOIA request, DHS may have applied FOIA Exemption 6 to protect PII of DHS employees, including names and contact information. To the extent that has DHS

withheld employee PII within these records, it has been determined that the employee(s) has/have substantial and legitimate privacy interests and that these interests are not outweighed by any public interest in the operations of the Department.

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 notice a recent date on the attached records. This is the date our processor queried the record in response to your FOIA request. For clarity, it is not the date the agency first created the record.

This completes the CBP response to your request. 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. (If you need telecommunication relay service (TRS) assistance to communicate with the CBP FOIA Office and you are in the United States, please dial 711 to obtain TRS assistance and notify the Communications Assistant that you want to contact the CBP FOIA Office at the telephone number (202) 325-0150). The FOIA Public Liaison 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-2022-077932 on any future correspondence to CBP related to this request.

If you are not satisfied with the response to this request, you have a right to appeal the final disposition. Should you wish to do so, you must file your appeal within 90 days of the date of this letter following the procedures outlined in the DHS regulations at Title 6 C.F.R. §5.8. Please include as much information as possible to help us understand the grounds for your appeal. You should submit your appeal via FOIAonline by clicking on the "Create Appeal" button that appears when you view your initial request. If you do not have a FOIAonline account, you must send your appeal and a copy of this letter to: FOIA Appeals, Policy and Litigation Branch, U.S. Customs and Border Protection, 90 K Street, NE, MS1177, Washington, DC 20229-1177. Your envelope and letter should be marked "FOIA Appeal." Copies of the FOIA and DHS regulations are available at [www.dhs.gov/foia](http://www.dhs.gov/foia). Additional information can be found at the following link [https://www.cbp.gov/sites/default/files/assets/documents/2019-Dec/definitions-exemptions-foia\\_0.pdf](https://www.cbp.gov/sites/default/files/assets/documents/2019-Dec/definitions-exemptions-foia_0.pdf).

Additionally, you have a right to seek dispute resolution services from the Office of Government Information Services (OGIS) which mediates disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. If you are requesting access to your own records (which is considered a Privacy Act request), you should know that OGIS does not have the authority to handle requests made under the Privacy Act of 1974. You may contact OGIS as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at [ogis@nara.gov](mailto:ogis@nara.gov); telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769. Please note that contacting the CBP FOIA Public Liaison or OGIS **does not** stop the 90-day appeal clock and **is not** a substitute for filing an administrative appeal.

Sincerely,

U.S. Customs and Border Protection

1300 Pennsylvania Avenue, NW  
Washington, DC 20229



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

**OT:RDL:RR:DLJA  
CBP-AP-2023-000697 WAS**

February 17, 2023

Brett J. O'Brien  
National Security Law Firm  
1250 Connecticut Avenue  
Suite 700  
Washington, D.C. 20036

RE: Freedom of Information Act (FOIA) Appeal; FOIA Division File No. **CBP-2022-077932**

Dear Mr. O'Brien:

This letter responds to the Freedom of Information Act (FOIA) appeal you submitted challenging U.S. Customs and Border Protection's (CBP) FOIA Division decision to deny your client's request for records related to the revocation of Tatiana Braun's Trusted Traveler Program membership. By this letter, we grant your appeal and release the attendant records.

**I. Your Client's Initial FOIA Request**

On May 12, 2022, Ms. Braun submitted a request for records via FOIAonline. In her request, she specifically stated "On 04/27/22 my Global Entry 984077119 got revoked. In order for me to request a reconsideration I need to know the reason it got revoked. Could you please send that to me via mail, email or even upload it to my Global Entry account?"

On January 13, 2023, FOIA Division issued a Partial Grant/Partial Denial and partially released 20 pages of records it identified in the Global Enrollment System (GES). You appealed FOIA Division's determination on behalf of Ms. Braun on February 14, 2023. In your appeal you threatened a civil lawsuit "[i]f U.S. Customs and Border Protection continues to withhold documents to which Tatiana Braun is entitled."

Before addressing the substance of your appeal, we would like to clarify that this determination is limited to reviewing FOIA Division's response to your request for records. This office does not have the ability or authority to review or explain actions taken by the Trusted Traveler Program office. If you have questions related to the Trusted Traveler Program office's

determination, you can contact the Trusted Traveler Ombudsman. Instructions on how to do so will be provided later in this letter.

Additionally, 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.

## **II. Appeals Determination**

The Freedom of Information Act was enacted to “ensure an informed citizenry, vital to the functioning of a democratic society, needed to check against corruption and to hold the governors accountable to the governed.” *Nat’l Labor Relations Bd. v. Robbins Tire & Rubber Co.*, 437 U.S. 214, 242 (1978). The law provides the public with the right to receive records and information from the government in order to further democratic principles and allow for independent evaluation of government action.

In furtherance of that interest, this office considered your request *de novo* and conducted a new search for potentially responsive records. To begin our review, our office obtained a copy of the file created by FOIA Division when it responded to your initial FOIA request. We agree with your assessment that FOIA Division’s response was insufficient. Accordingly, we are amending that decision.

Because your FOIA request sought records related to your client’s Global Entry program membership revocation, like FOIA Division, our office searched GES, an official system of records for trusted traveler programs that facilitates enrollment and continued participation in such programs. GES contains trusted traveler program applicants’ and participants’ enrollment data, including biographic and biometric information collected during the application and enrollment process, as well as the vetting results based on information obtained from various law enforcement databases. It also contains information on CBP’s determinations regarding admission into, and continued participation in, the various trusted traveler programs. We located the same four records in GES as FOIA Division. We re-release those records to you today with some additionally released information.

We also searched TECS, an overarching law enforcement information collection, risk assessment, and information sharing environment. It is also a repository for law enforcement and investigative information. TECS is comprised of several modules that collect, maintain and evaluate screening data, conduct targeting analysis, and makes information available to appropriate law enforcement officers of the U.S. Government. TECS investigative and law enforcement information can pertain to individuals, businesses, conveyances, and the importation and exportation of merchandise. It also includes border crossing information on travelers entering and departing the United States. We located ten records in TECS responsive to your request.

In total, our search identified 14 records responsive to your request. We release each record to you today. However, you will notice that certain information contained in the records has been redacted and withheld from release because it is exempt from the disclosure provisions of the FOIA. We explain our determination to withhold that information pursuant to Exemptions (b)(3), (b)(6), (b)(7)(C) and (b)(7)(E) of the FOIA in the next section of this letter.

Insofar as you concurrently submitted your request pursuant to the Privacy Act in addition to the FOIA, please note that both TECS and GES are both exempt from certain provisions of the Privacy Act, including those related to the notification, access, and amendment procedures located therein. 6 C.F.R. § 5, Appendix C. We have therefore processed your request under the FOIA, which allows the greatest amount of access to the requested information.

### **III. Information Withheld from Disclosure**

As noted above, the FOIA “was enacted to facilitate public access to Government documents,” *U.S. Dep’t of State v. Ray*, 502 U.S. 164, 173 (1991), and espouses “a general philosophy of full agency disclosure.” *Dep’t of the Air Force v. Rose*, 425 U.S. 352, 360-61 (1976). The FOIA provides that government agencies shall make available to the public a broad spectrum of information, but exempts from its mandate certain specified categories of information. *Env’t Prot. Agency v. Mink*, 410 U.S. 73, 74 (1973). Thus, despite the primary goal of the FOIA to promote openness, “Congress realized that legitimate governmental and private interests could be harmed by release of certain types of information and provided nine specific exemptions under which disclosure could be refused.” *Fed. Bureau of Investigation v. Abramson*, 456 U.S. 615, 621 (1982).

Please note that we have provided you with the greatest amount of information possible. The direct language of the Freedom of Information Act instructs federal agencies to provide any “reasonably segregable portion of a record” to “any person requesting such record after deletion of the portions which are exempt.” 5 U.S.C. §552(b). We do not take this charge lightly; only the information protected by the statutorily defined exemptions has been blacked out on your copies of the records. To comport with this requirement, this office “differentiate[d] among the contents of a document rather than to treat it as an indivisible ‘record’ for FOIA purposes.” *Abramson*, 456 U.S. at 626.

In withholding any information, we blacked out only the information protected by the statutorily defined exemptions and identified the applicable exemption at the location of redaction. We limited our withholdings to that information in which “the agency reasonably foresees that disclosure would harm an interest protected by an exemption,” 5 U.S.C. §552(a)(8)(A)(i), as described in further detail below. Even if information technically fell within the bounds of an exemption, we did not redact it unless we could identify any foreseeable harm that would flow from its release.

#### **A. Information Withheld to Protect Sensitive Security Information**

Exemption (b)(3) applies to that information that is “specifically exempted from disclosure by statute... if that statute” either “requires that the matters be withheld from the public in such a

manner as to leave no discretion on the issue” or “establishes particular criteria for withholding or refers to particular types of matters to be withheld.” 5 U.S.C. § 552(b)(3). Exemption (b)(3) requires the application of a two-part test to determine its applicability. We must first assess “whether there is a statute within the scope of Exemption 3” and next “whether the requested information falls within the scope of that statute.” *Minier v. Cent. Intel. Agency*, 88 F.3d 796, 801 (9th Cir. 1996).

In these records, FOIA Exemption (b)(3) is asserted on behalf of the Transportation Security Administration (“TSA”) to protect a very small amount of Sensitive Security Information (SSI) found in the responsive records. 49 U.S.C. § 114(r) prohibits the disclosure of information that “would be detrimental to the security of transportation” if released. TSA regulations implementing Section 114(r) are found in 49 C.F.R. Part 1520. Pursuant to 49 C.F.R. § 1520.5(b)(9), security screening procedures, including selection criteria for the screening of persons as well as information and sources of information used by a passenger or property screening program or system, including an automated screening system, is SSI and is therefore exempt from disclosure. *See Skurow v. Dep’t of Homeland Sec.*, 892 F. Supp. 2d 319, 329 (D.D.C. 2012); *Gordon v. Fed. Bureau of Investigation*, 390 F. Supp. 2d 897, 900 (N.D. Cal. 2004).

#### **B. Information Withheld to Protect the Personal Privacy Interests of Individuals Identified in the Records**

FOIA Exemption (b)(6) was applied to these records to protect the names and identifying information of CBP employees where it appears in the records. FOIA Exemption (b)(6) provides for the exemption from disclosure of “personnel and medical files and similar files.” 5 U.S.C. § 552(b)(6). The United States Supreme Court held that the phrase “personnel and medical and similar files” was to be broadly interpreted and includes all information that “applies to a particular individual.” *U.S. Dep’t of State v. Wash. Post Co.*, 456 U.S. 595, 601 (1982). Unquestionably, these records, created by the agency in furtherance of its mission qualify as “similar files” within the terms of the exemption.

Once the threshold requirement that the records are “personnel and medical and similar files” is met, the issue becomes whether disclosure of the information “would constitute a clearly unwarranted invasion of personal privacy.” 5 U.S.C. § 552(b)(6). The resolution of this issue involves a balancing of the public’s right to know the information against the individual’s right to privacy. *See Rose*, 425 U.S. at 372.

In addition to the application of Exemption (b)(6), the names and other identifying information of CBP employees are withheld under Exemption (b)(7)(C). Exemption (b)(7)(C) exempts from disclosure “records and information compiled for law enforcement purposes” the disclosure of which “could reasonably be expected to constitute an unwarranted invasion of personal privacy.” 5 U.S.C. § 552(b)(7)(C). Exemption (b)(7) applies to civil, criminal, and administrative law enforcement proceedings, and protects, among other information, the identity of law enforcement personnel and third parties referenced in files compiled for law enforcement purposes.



The GES and TECS records that we release today meet the requirement for being compiled for law enforcement purposes. CBP is a law enforcement agency with enforcement responsibilities for more than 400 federal statutes. Therefore, many of the files created and maintained by CBP are directly related to law enforcement operations. CBP's mission is to protect the borders of the United States by enforcing the customs and immigration laws of the United States, and fostering our Nation's economy through lawful international trade and travel. Given the nature of your request and the location of the responsive records, the records being released with this letter are law enforcement records because such records are compiled in direct relation to CBP's law enforcement mandate to protect the U.S. borders.

Here, Exemption (b)(7)(C) is asserted to protect the identities and contact information of CBP employees responsible for creating the records in question and conducting the law enforcement activities. The primary consideration is to protect individuals whose names appear in records and CBP employees as individuals from unnecessary, unofficial questioning and harassment as to the conduct of their duties.

The names and identities in question today clearly implicate those privacy interests. As personnel of a "security agency," those individuals have a substantial privacy interest in that information not being released to the public. See 5 CFR §293.311; Memorandum from CBP Acting Commissioner Mark Morgan, *All CBP Designated as a Security Agency under Office of Personnel Management* (January 31, 2020). Both Exemption (b)(6) and Exemption (b)(7)(C) have been found to protect the privacy interests of all persons mentioned in law enforcement records, including investigators, suspects, witnesses and informants. *Lewis v. Dep't of Justice*, 609 F. Supp. 2d 80, 84 (D.D.C. 2009). See also *Roth v. Dep't of Justice*, 642 F.3d 1161, 1174 (D.C. Cir. 2011) ("we have 'long recognized,' the mention of an individual's name in a law enforcement file will engender comment and speculation and carries a stigmatizing connotation. [N]ot only the targets of law-enforcement investigations, but also 'witnesses, informants, and ... investigating agents' have a 'substantial interest' in ensuring that their relationship to the investigations 'remains secret.'") (internal citations omitted). We therefore find the privacy interest of the individuals identified in the records to be significant.

Our analysis then turns to whether you as a requester have identified a public interest sufficient to overcome the privacy interest of those individuals. That public interest can only be the one that furthers FOIA's lone goal: "to open agency action to the light of public scrutiny." *Rose*, 425 U.S. at 372. In this case, we find that you have not asserted any public interest in the disclosure of the personally identifying information that has been withheld under FOIA Exemptions (b)(6) and (b)(7)(C).

We further find that an individual's right to privacy outweighs whatever public interest, if any, might exist in knowing the information such as the individual's name, contact information, etc. Your failure to show how the release of the names of the individuals identified in the records would further the public interest of identifying agency action demands that the weighty privacy interests at play prevail on the balancing test. In order to compel release of materials, there must be a public interest because "something, even a modest privacy interest outweighs nothing every time." *Cappabianca v. Comm'r, U.S. Customs Serv.*, 847 F. Supp. 1558 (M.D. Fla. 1994). As there is no public interest served by placing the identities and contact information of CBP

employees and other individuals before the public, we conclude that Exemptions (b)(6) and (b)(7)(C) are applicable to the information and records withheld from disclosure.

### **C. Information Withheld to Protect Law Enforcement Techniques, Procedures, and Guidelines**

We additionally withhold law enforcement techniques and procedures practiced by CBP personnel while evaluating applicants for membership in the trusted traveler programs and while evaluating individuals for international travel generally pursuant to Exemption (b)(7)(E), which exempts material that was compiled for law enforcement purposes and that would disclose previously unknown “techniques and procedures” or “guidelines” for “law enforcement investigations or prosecutions.” 5 U.S.C. § 552(b)(7)(E).

While application of the exemption is limited to cases in which disclosure “could reasonably be expected to risk circumvention of the law,” *Id.*, Exemption (b)(7)(E) “sets a relatively low bar for the agency to justify withholding.” *Blackwell v. Fed. Bureau of Investigation*, 646 F.3d 37, 42 (D.C. Cir. 2011). “To clear that relatively low bar, an agency must demonstrate only that release of a document might increase the risk ‘that a law will be violated or that past violators will escape legal consequences.’” *James Madison Project v. Dep’t of Justice*, 2016 U.S. Dist. LEXIS 129453 (D.D.C. Sept. 22, 2016). Once determined that information falls within Exemption (b)(7)(E)’s purview, it does not suffer a balancing test similar to other exemptions. Rather, it is “categorically exempt” from disclosure. *Fisher v. Dep’t of Justice*, 772 F.Supp. 7, 12 at n. 9 (D.D.C. 1991).

The information withheld from GES records consists of law enforcement techniques or procedures utilized by CBP Officers as they evaluate applicants for participation in a trusted traveler program. The redacted information highlights the exact factors considered by the agency for membership in a trusted traveler program as well as how the agency applies those factors in its risk analysis determination. It includes a listing of law enforcement databases queried, the modules accessed within those databases, the specific queries conducted in those modules, and the results of those queries. It further includes database codes, file numbers, and other computer information pertaining to law enforcement databases. Finally, we redacted information related to the risk assessment analysis performed by CBP personnel applying their expertise in evaluating whether reduced scrutiny might be appropriate for Plaintiff.

Bad actors armed with this information could circumvent the law and frustrate CBP’s law enforcement efforts. If unprotected, applicants and members could alter their behavior or manipulate their applications to thwart CBP efforts to secure the border and effectively make eligibility determinations related to the trusted traveler programs and could facilitate the admission of high-risk travelers to trusted traveler programs.

Additional redactions in the attached records withhold otherwise unknown, specific law enforcement techniques, procedures, and guidelines followed by agency when performing its law enforcement mandate of securing this nation’s borders. The information indicates what circumstances might trigger additional scrutiny while processing international travelers for entry into the country and provides instructions to CBP personnel related to which law enforcement

techniques ought to be practiced in those circumstances. Disclosure of this information “would illustrate the agency’s strategy in implementing these specific techniques,” and, in turn, “could lead to decreased effectiveness in future investigations by allowing potential subjects to anticipate... and identify such techniques as they are being employed.” *Lewis-Bey v. Dep’t of Justice*, 595 F. Supp. 2d 120, 138 (D.D.C. 2009), *Buffalo Evening News, Inc. v. U.S. Border Patrol*, 791 F. Supp. 386, 393 (W.D.N.Y. 1992) (protecting records that “would clearly disclose the USBP’s techniques for apprehending excludable aliens”).

Please note that while you yourself surely do not seek this information for nefarious purposes, “it would appear obvious that those immediately and practically concerned with such matters would be individuals embarked upon clandestine and illicit operations, the detection of which would be frustrated if they were privy to the methods employed... to ferret them out.” *Caplan v. Bureau of Alcohol, Tobacco & Firearms*, 587 F.2d 544, 547 (2d Cir. 1978).

#### **IV. Additional Information about CBP’s Trusted Traveler Programs**

As noted above, this office only has the ability and authority to obtain and release records to you in response to your FOIA request. We do not make decisions regarding eligibility for the agency’s trusted traveler programs nor do we have the ability or authority to modify the decision of the Trusted Traveler Program office. This office has neither the capability nor authority to resolve issues, answer questions, or explain the operations of the trusted traveler programs.

That said, the Trusted Traveler Programs are voluntary, “zero tolerance” programs available only to persons who pass a comprehensive background check. Applicants may not qualify for the program if they:

- Provide false or incomplete information on the application;
- Have been convicted of any criminal offense or are subject to pending criminal charges, to include outstanding warrants;
- Have been found in violation of any customs, immigration, or agriculture regulations or laws in any country;
- Are the subject of an investigation by any federal, state, or local law enforcement agency;
- Are inadmissible to the United States under immigration regulations, including applicants with approved waivers of inadmissibility or parole documentation; or
- Cannot satisfy CBP of their low-risk status or meet other program requirements.

If you have ongoing concerns about your trusted traveler program membership status, you may address the issue by making an appointment at a Trusted Traveler Enrollment Center or by contacting the trusted traveler program Ombudsman at: <https://ttp.cbp.dhs.gov>.

You may also choose to submit a reconsideration request from your TTP Dashboard, accessible at the above-listed website. Prior to submitting a request for reconsideration, the Trusted Traveler Program Office encourages you to carefully review any and all communications from that office regarding the status of your membership as well as any records released to you today.

Your request for reconsideration should include enough information for the Ombudsman to conduct a meaningful review of your application. You may choose to upload PDF attachments of your reconsideration request letter and other documents, such as court records, to assist in the adjudication. Incomplete requests or requests with minimal documentation or details regarding any derogatory information in your background check may not support overturning the Trusted Traveler Program office's decision.

#### **V. Judicial and Other Remedies**

In the event that you are dissatisfied with the disposition of your appeal, you may obtain judicial review of this decision pursuant to the provisions of 5 U.S.C. §552(a) (4)(B) in the United States District Court in the District in which you reside, in the District where the agency records are situated, or in the United States District Court for the District of Columbia.

Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001; e-mail at [ogis@nara.gov](mailto:ogis@nara.gov); telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Sincerely,

A handwritten signature in black ink, appearing to read 'Matthew Pollack', written in a cursive style.

Matthew Pollack, Chief  
Disclosure Law and Judicial Actions Branch  
Regulations and Rulings Directorate, Office of Trade  
U.S. Customs and Border Protection