

# EXHIBIT A



January 5, 2024

Arla Witte-Simpson  
FOIA Public Liaison  
Executive Office for United States Attorneys  
U.S. Department of Justice 175 N Street, N.E., Suite 5.400,  
Washington, DC 20530-0001

U.S. Customs and Border Protection  
FOIA Office  
90 K Street NE  
Mail Stop 1181  
Washington, D.C 20229

*Sent via Respective Web Portals*

Dear FOIA Officer:

This letter constitutes a request pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, submitted on behalf of the National Immigration Project (“NIPNLG”) and Muslim Advocates (“MA”) (referenced jointly hereinafter as “the Requestors”). We seek a fee waiver, pursuant to 5 U.S.C. § 552(a)(4)(A)(iii). This request seeks information pertaining to data about prosecutions in the Western District of Texas (Del Rio) under 19 U.S.C. § 1459, 8 U.S.C § 1325, and 8 U.S.C § 1326.

### **I. Records Requests**

The Requestors seek the release of the following:

- 1- All records<sup>1</sup> reflecting the number of prosecutions under 19 U.S.C. § 1459, 8 U.S.C § 1325, and 8 U.S.C § 1326 brought by prosecutors in the Del Rio U.S. Attorney’s Office

---

<sup>1</sup> In this request, “records” shall refer to, but not be limited to, all worksheets, coversheets, forms, emails, written documents, database entries, post-it notes, logs, metadata, files, correspondence, data, videotapes, audiotapes, e-mails, faxes, files, guidance, guidelines, evaluations, instructions, analyses, memoranda, agreements, notes, orders, policies, procedures, protocols, reports, rules, manuals, technical specifications, training manuals, and studies, including records kept in written form, or electronic format on computers and/or other electronic storage devices, electronic communications, and/or video tapes.

between January 1, 2021, and the date that data production for this FOIA request commences. For each of these prosecutions, the Requestors seek the nationality of the defendant, the date of the charge, the final disposition of the charge, the date of that final disposition, and any sentence issued for a conviction under the charge.

- 2- All records reflecting the number of referrals by CBP to the U.S. Attorney's Office in Del Rio for prosecution under 19 U.S.C. § 1459, 8 U.S.C § 1325, and/or 8 U.S.C § 1326 between January 1, 2021, and the date that data production for this FOIA request commences. For each of these referrals, the Requestors seek the nationality of the defendant and the date of referral.
- 3- All records reflecting the number of arrests made by the Del Rio Sector of CBP between January 1, 2021, and the date that data production for this FOIA request commences. For each arrest, the Requestors seek the nationality of the arrested individual, the charges, and the disposition of the arrest.

The Requestors ask that any records that exist in electronic form be provided electronically in their native file format, if possible., the Requestors ask that records be provided electronically in a text-searchable, static-image format (PDF), in the best image quality in the agency's possession, and that the records be provided in separate, Bates-stamped files. Please produce with the records any metadata and load files. If codes are employed, please also produce any documents in your possession explaining the codes employed, and what they signify.

If under applicable law any of the information is considered exempt, we request a *Vaughn* index describing each withheld document with sufficient specificity to enable us to determine the propriety of your claimed exemption. Please describe in detail the nature of the information withheld, the specific exemption or privilege upon which the information is withheld, and whether the portions of withheld documents containing non-exempt or non-privileged information have been provided.

## **II. Requestors**

NIPNLG is a national non-profit that provides technical and litigation support to immigrant communities, legal practitioners, and advocates seeking to advance the rights of noncitizens. NIPNLG provides training to the bar and the bench on immigration consequences of criminal conduct, and is the author of four treatises on immigration law published by Thomson Reuters. In addition, NIPNLG staff present, and regularly publish practice advisories, on immigration law topics, which are disseminated to its members as well as to a large public audience through its website, [www.nationalimmigrationproject.org](http://www.nationalimmigrationproject.org). Finally, NIPNLG has contact with national print and news media and plans to share information gleaned from FOIA disclosures with interested media.

MA is a national legal advocacy and educational organization that works on the frontlines of social justice with and for Muslim and other historically marginalized communities to build community power, fight systemic oppression, and demand shared well-being. MA engages in litigation, policy advocacy, and educational outreach and regularly produces reports, white

papers, and other materials to educate the public on civil-rights and social-justice matters. MA regularly files FOIA requests and publishes information obtained pursuant to such requests in a digestible, public-facing form.

### **III. Request for Waiver of All Costs**

The requestors are organizations that work on behalf of immigrant and indigent communities and seeks that the agency waive all fees associated with this request.

The Requestors are entitled to a waiver of all costs because disclosure of the information 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.” 5 U.S.C. § 552(a)(4)(A)(iii). *See also* 6 C.F.R. § 5.11 (k) (records furnished without charge or at a reduced rate if the information is in the public interest, and disclosure is not in commercial interest of institution).

A fee waiver also would fulfill Congress’ intent in amending the FOIA. *Judicial Watch, Inc. v. Rossoti*, 326 F.3d 1309, 1312 (D.C. Cir. 2003) (discussing that Congress intended the FOIA to be construed broadly to favor fee waiver for noncommercial requests). In addition, NIPNLG has the ability to widely disseminate the requested information. *Judicial Watch*, 326 F.3d at 1301 (finding a fee waiver appropriate when the requester explained, in detailed and non-conclusory terms, how and to whom it would disseminate the information it received).

#### **a. Disclosure of the Information Is in the Public Interest**

Disclosure of the requested information will contribute significantly to the public’s understanding of United States’ policies and practices with respect to prosecuting immigration related criminal offenses in the Del Rio office. Specifically, there have been concerns in the media and public about the specific practices of the Del Rio office in this area. *See* Hamed Aleaziz, *Asylum seekers from Muslim-majority countries disproportionately imprisoned at Texas border*, L.A. Times, Aug. 31, 2023; Hamed Aleaziz, *U.S. probing prosecutions of migrants from Muslim-majority countries exposed by Times investigation*, L.A. Times, Sept. 13, 2023. The records requested will provide information that will shed light on this issue. This information is not currently available to the public.

The Requestors have the capacity and intent to disseminate widely the requested information to the public. They will review, analyze and and/or summarize the information obtained through this FOIA. In addition, their staff will speak publicly and publish related written materials to be shared with the public, organizational members and the academic community. The Requestors will make the information available through their websites, which are accessible by any member of the public. Finally, the Requestors have frequent contact with national print and news media and plans to share information gleaned from FOIA disclosures with interested media.

#### **b. Disclosure of the Information Is Not Primarily in the Commercial Interest of the Requester**

The Requestors are 501(c)(3), tax-exempt, not-for-profit organizations. Attorneys, noncitizens and any other interested members of the public may obtain information about immigration-related issues through the Requestors' distribution of written materials, including their websites, and through public and educational appearances. The requested information is sought for the purpose of disseminating it to members of the public, including through posting it on the Requestors' websites and other publications, and not for the purpose of commercial gain.

#### **IV. Address for Productions**

Thank you for your consideration of this request. We look forward to your response to our request within twenty (20) business days, as required by statute. 5 U.S.C. § 552(a)(6)(A)(i). Please furnish records as soon as they are identified via email to [khaled@nipnlg.org](mailto:khaled@nipnlg.org) and by mail to:

Khaled Alrabe  
National Immigration Project  
1200 18th Street NW Suite 700  
Washington, DC 20036

Thank you in advance for your prompt response to this request. If you have any questions regarding this request, please contact Khaled Alrabe at [khaled@nipnlg.org](mailto:khaled@nipnlg.org).

Sincerely,



Khaled Alrabe  
National Immigration Project  
1200 18th Street NW Suite 700  
Washington, DC 20036  
Telephone: 510.679.3994  
Email: [khaled@nipnlg.org](mailto:khaled@nipnlg.org)