

# Exhibit 1



CENTER FOR IMMIGRATION STUDIES

**CBP FOIA REQUEST**

VIA FOIA PORTAL

October 11, 2023

**Re: Breakdown of nationwide encounter data for “other” countries (CIS#0069)**

Dear Freedom of Information Officer:

Pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, the Center for Immigration Studies (“the Center”), hereby requests the following records to be provided in electronic form to [foia@cis.org](mailto:foia@cis.org):

**Currently, CBP provides a breakdown of monthly data for nationwide encounters for 21 named nationalities on the Nationwide Encounters page of CBP’s website.<sup>1</sup> All other nationalities’ data are consolidated under the designation “other”. Please produce all records sufficient to show:**

- 1) The different nationalities that comprise the data under the “other” designation; and**
- 2) The same breakdown of monthly data for each nationality included in the “other” designation, that are available for the 21 named nationalities on the Nationwide Encounter page.<sup>2</sup>**

**The timeframe for this request is January 1, 2021 through the date of the search.**

If any responsive record or portion thereof is claimed to be exempt from production under the provisions of FOIA, please provide sufficient identifying information with respect to each allegedly exempt record, or portion thereof, to allow the Center to assess the propriety of the claimed exemption. *Vaughn v. Rosen*, 484 F. 2d 820 (D.C. Cir. 1973). In addition, any portion of a responsive record that can be reasonably segregated must be provided, after redaction of any exempt material. 5 U.S.C. § 552 (b). The Center will accept a “rolling production” of documents if necessary to facilitate the production of responsive records.

For the purpose of this request, the term “record” shall mean: 1) any written, printed, or typed material of any kind, including without limitation all correspondence memoranda, notes, messages, letters, cards, facsimiles, papers, forms, telephone messages, diaries, schedules, books, reports, calendars, chronological data, minutes, charts, lists, ledgers, invoices, worksheets,

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<sup>1</sup> <https://www.cbp.gov/newsroom/stats/nationwide-encounters>.

<sup>2</sup> *Id.*

receipts, returns, computer printouts, printed matter, prospectuses, statements, checks, statistics, surveys, affidavits, contracts, agreements, transcripts, magazine or newspaper articles, or press releases; 2) any electronically, magnetically, or mechanically stored material of any kind, including without limitation all electronic mail, email, text messages, or chats; 3) any audio, aural, visual, or video records, recordings, or representations of any kind; 4) any graphic materials and data compilations from which information can be obtained; and 5) any materials using other means of preserving thought or expression.

The Center also hereby requests a waiver of any and all fees and charges pursuant to 5 U.S.C. §§ 552(a)(4)(A)(ii)(II) and (a)(4)(A)(iii). First, the Center is entitled to a waiver of search fees under 5 U.S.C. § 552(a)(4)(A)(ii)(II) because under FOIA it qualifies as a member of the news media. *See National Security Archive v. Department of Defense*, 880 F. 2d 1381, 1387 (D.C. Cir. 1989) (“A representative of the news media is, in essence, a person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience.”). The Center is a research institution whose mission is to provide immigration policymakers, the academic community, news media, and concerned citizens with reliable information about the social, economic, environmental, security, and fiscal consequences of legal and illegal immigration into the United States.<sup>3</sup> In service of this mission, the Center regularly obtains information about the operations and activities of government through FOIA and other means, uses its editorial skills to turn the information into distinct works, and widely disseminates the information through a variety of media platforms.<sup>4</sup> The Center intends to do likewise with the records it receives through this request.

Secondly, the Center is entitled to a complete waiver of both search and duplication fees pursuant to 5 U.S.C. § 552(a)(4)(A)(iii). Under this provision, records “shall be furnished without any charge or at a charge reduced” if “the disclosure of the 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.” 5 U.S.C. § 552(a)(4)(A)(iii). The Center is a 501(c)(3), not-for-profit, educational and research organization, and, by definition, it has no commercial purpose. The Center exists to educate the public about the operations and activities of the government concerning the issue of immigration, and to increase public understanding of the effect of immigration on U.S. systems. Once the Center obtains the requested records, it intends to analyze them and widely disseminate the results of its analysis utilizing a variety of media platforms.<sup>5</sup> It also will make the records available to other members of the media or researchers upon request.

Finally, access to the requested records should be granted within twenty (20) business days from the date of your receipt of this letter, otherwise the Center is further entitled to a complete waiver of search and duplication fees. 5 U.S.C. § 552(a)(4)(A)(viii). Furthermore, the agency’s failure to respond in a timely manner shall be viewed as a denial of this request, and the Center

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<sup>3</sup> See <https://cis.org/Center-For-Immigration-Studies-Background>.

<sup>4</sup> See <https://cis.org/Publications>; see also <https://cis.org/Podcasts/Parsing-Immigration-Policy>; <https://www.facebook.com/CenterforImmigrationStudies/>; [https://twitter.com/CIS\\_org](https://twitter.com/CIS_org); <https://www.youtube.com/@CenterforImmigrationStudies>.

<sup>5</sup> *Id.*

may immediately take further administrative or judicial action.

If you would like to discuss the request or any issues raised in this letter, please feel free to contact me at 202-466-8185 ext. 126 or [foia@cis.org](mailto:foia@cis.org). For all other formal correspondence regarding this request, please email [foia@cis.org](mailto:foia@cis.org). Thank you for your time and attention to this matter.

Sincerely,

Colin M. Farnsworth, Esq.  
Chief FOIA Counsel  
Center for Immigration Studies