

# **EXHIBIT 3**



Fighting Hate  
Teaching Tolerance  
Seeking Justice

Southern Poverty Law Center  
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April 12, 2018

Angela Washington  
Public Liaison  
The Privacy Office  
U.S. Department of Homeland Security  
245 Murray Lane SW  
STOP-0655  
Washington, D.C. 20528-0655  
Phone: 202-343-1743 or 866-431-0486  
Fax: 202-343-4011  
E-mail: [foia@hq.dhs.gov](mailto:foia@hq.dhs.gov)

***VIA E-MAIL***

Re: Response to Customs and Border Protection's March 6, 2018 Request that SPLC Narrow the Scope of FOIA Request CBP-2018-030379

Dear Ms. Washington,

On February 9, 2018, I submitted a request on behalf of the Southern Poverty Law Center (SPLC) for records pursuant to the Freedom of Information Act. *See Ex. A.* (SPLC's Original Request). In this request, SPLC asked for records pertaining to (1) interactions between Customs and Border Protection (CBP) and customers/passengers of common carrier buses and (2) apprehensions on common carrier buses or at bus stops in Florida, from September 1, 2016 to February 1, 2017 and September 1, 2017 to February 1, 2018. *Id.* SPLC also requested (3) documents detailing or describing CBP procedures and policies related to operations on common carrier buses or at bus stops. *Id.*

On March 6, 2018, we received a response from Jodi Drengson stating that our request was "too broad in scope or did not specifically identify the records which you are seeking." *See Ex. B.* (CBP's Request to Narrow).

We disagree with this finding. The subject matters of our request are described in sufficient detail to allow CBP to locate them with a reasonable amount of effort. As required by DHS regulations, 6 C.F.R. § 5.3(b), we described the records with "sufficient information to permit an organized, non-random search for the record[s]." Although SPLC is not familiar with CBP's "filing arrangements and existing retrieval systems," we provided various types of specific information in our request that should allow CBP to conduct an organized, non-random search

and locate the records we seek. 6 C.F.R. § 5.3(b). We included examples of the record types and likely file designations sought. *See* Ex. A. (SPLC’s Original Request) (“Records should include, but are not limited, to incident reports, arrest reports, immigration arrest warrants, body camera footage, and use of force reports.”); *see also* 6 C.F.R. § 5.3(b) (“request should include specific information . . . such as . . . file designation”). We included specific information on the kind of event which would have created the records sought, and the subject matter of the records. *See* Ex. A. (SPLC’s Original Request) (“ . . . that took place at common carrier bus stops and/or aboard common carrier buses (such as Greyhound, RedCoach Business, Megabus, etc.) in Florida.”); *see also* Ex. B. (CBP’s Request to Narrow) (“request should include specific information . . . such as the event that would have created the record”); 6 C.F.R. § 5.3(b) (“requesters should include . . . subject matter of the record”). We also provided the dates and locations of specific interactions and apprehensions we were interested in, and even provided links to news stories about those specific interactions and apprehensions. *See* Ex. A. (SPLC’s Original Request); *see also* 6 C.F.R. § 5.3(b) (“requesters should include specific information . . . such as . . . date”).

As to the arrest records requested, we ask that all personal identifying information be redacted, eliminating the need for a signed release of information, G-28, or G-639 form. 5 U.S.C. § 552 (“Any reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt . . .”).

As to the specific incidents we identified: if there was more than one arrest on a common carrier bus or at a common carrier bus stop on January 19, 2018 in Ft. Lauderdale, on January 25, 2018 in Ft. Lauderdale, or on January 30, 2018 in Tampa, please produce all such arrest reports.

The March 6 response from CBP also asked that we narrow the date range of our request, as responsive documents from the requested range “may take several months to compile, review and redact.” *See* Ex. B. (CBP’s Request to Narrow). We included a specific, narrow, and recent date range: September 1, 2016 to February 1, 2017 and September 1, 2017 to February 1, 2018. *See* Ex. A. (SPLC’s Original Request). We will not further reduce the date range requested.

Please inform us by April 19 whether you accept the request and will begin the search for documents. 5 U.S.C. § 552 (a)(6)(A)(i) (requiring an agency to reply within 20 days of the original request for records). If you deny our request we intend to appeal the denial pursuant to 5 U.S.C. § 552(a)(6)(A)(ii).

Sincerely,



Viviana Bonilla López  
Law Fellow, Immigrant Justice  
Southern Poverty Law Center  
PO Box 370037  
Miami, FL 33137

# **Exhibit A**

## **SPLC's Original Request**



Fighting Hate  
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February 9, 2017

U.S. Customs and Border Protection  
1300 Pennsylvania Avenue, NW, Room 3.3D  
Washington, D.C. 20229  
ATTN: FOIA Officer/Public Liaison Sabrina Burroughs

Dear FOIA Public Liaison:

On behalf of Southern Poverty Law Center (SPLC), we hereby request that, pursuant to the Freedom of Information Act, 5 U.S.C. 552, the U.S. Customs and Border Protection (CBP) provide the following information:

- Any and all documents<sup>1</sup> related to apprehensions that took place at common carrier bus stops and/or aboard common carrier buses (such as Greyhound, RedCoach Business, Megabus, etc.) in Florida from September 1, 2016 to February 1, 2017 and September 1, 2017 to February 1, 2018. Documentation should include dates, times, and details regarding the apprehension, any and all action taken by CBP, and the name and badge numbers of the CBP officer(s) involved. Records should include, but are not limited, to incident reports, arrest reports, immigration arrest warrants, body camera footage, and use of force reports; and
- Any and all documents<sup>2</sup> related to interactions between CBP officers and customers and/or passengers of common carrier buses, either at stops or aboard the bus, in Florida from September 1, 2016 to February 1, 2017 and September 1, 2017 to February 1, 2018. "Interactions" includes conversations, searches, inspections, questioning of any kind, and requests for identification or other papers. Documentation should include dates, times, and details regarding the interaction, any and all action taken by CBP, and the name and badge numbers of the CBP officer(s) involved. Records should include, but are not limited, to incident reports,

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<sup>1</sup> The term "document" is to be interpreted in the broadest possible sense within the meaning of the Freedom of Information Act and shall include, without limitation, any written, printed, typed, spoken, computerized, or other graphic, phonic, or recorded matter of any kind or nature, however produced or reproduced, whether sent or received or neither, including drafts and copies bearing notations or marks not found on the original.

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

arrest reports, immigration arrest warrants, body camera footage, and use of force reports; and

- The documents produced in accordance to the above two requests should include, among other all relevant documents, all documents related to the following three incidents:
  - The search of a Greyhound bus in Ft. Lauderdale on January 19, 2018, which resulted in the arrest of a woman. The following link is a news article on the incident:  
[https://www.washingtonpost.com/news/morning-mix/wp/2018/01/23/video-shows-border-patrol-officers-asking-greyhound-passengers-for-ids-taking-woman-into-custody/?utm\\_term=.64292a02179c](https://www.washingtonpost.com/news/morning-mix/wp/2018/01/23/video-shows-border-patrol-officers-asking-greyhound-passengers-for-ids-taking-woman-into-custody/?utm_term=.64292a02179c)
  - The search of a Greyhound bus in Ft. Lauderdale on January 25, 2018, which resulted in the arrest of a man, who was later let go. The following link is a news article on the incident:  
<https://mundohispanico.com/ciudades/orlando-florida/exclusiva-patrulla-fronteriza-arresta-por-error-a-inmigrante-en-autobus-video>
  - The search of a Greyhound bus in Tampa on January 30, 2018, which resulted in the arrest of a man. The following link is a news article on the incident:  
<http://www.miamiherald.com/news/local/immigration/article197562164.html>
- Any and all documents<sup>3</sup> detailing or describing CBP procedures or policies related to interactions, apprehensions, inspections, or mere presence at common carrier bus stops and inside common carrier buses.

For each item requested, please provide copies of all pertinent documents in CBP's possession, whether located at CBP regional offices or headquarters.

We request a waiver of all fees for this request because disclosure of the requested information is in the public interest. The Southern Poverty Law Center is a non-profit, public interest organization. This request is not for commercial use. Disclosure is likely to contribute significantly to public understanding of CBP's activities because SPLC will use such information to inform its public educational and advocacy efforts. In the event that a waiver of fees is not granted, the SPLC is willing to pay fees for this request up to a maximum of \$50. If you estimate that the fees will exceed this limit, please inform us first.

If you determine that some portions of the requested records are exempt from disclosure, we will expect, as the Act provides in § 552(b)(9), that you provide us with "any reasonably segregable portion" of the records sought.

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<sup>3</sup> *Id.*

If all or any part of this request is denied, please provide us with a written statement of the grounds for the denial, citing the law or regulation under which you believe you may deny access. If this is the case, we also request that you inform us of the available remedies for review of the denial.

It is essential that this request be responded to within 30 days, as required by § 552(a)(4)(B). If we do not receive a response within 30 days, we will treat your failure to respond as a denial and seek appropriate judicial relief.

If possible, we request that the information we seek be provided in electronic format. Thank you for consideration of this request. Please address any responses to this FOIA request to Viviana Bonilla López at [viviana.bonillalopez@splcenter.org](mailto:viviana.bonillalopez@splcenter.org).

Sincerely,

/s/ Viviana Bonilla López  
Viviana Bonilla López  
Law Fellow, Immigrant Justice  
Southern Poverty Law Center  
PO Box 370037  
Miami, FL 33137

# **Exhibit B**

## **CBP's Request to Narrow**



90 K Street NE  
MS 1181  
Washington, DC 20229

Viviana Bonilla-Lopez  
Southern Poverty Law Center  
PO Box 370037  
Miami, FL 33137

March 6, 2018

Dear Viviana Bonilla-Lopez,

After careful review of your FOIA request, CBP-2018-030379, we have determined that your request is too broad in scope or did not specifically identify the records which you are seeking. *FOIA is not a search mechanism.* Records must be described in reasonably sufficient detail to enable government employees who are familiar with the subject area to locate records without placing an unreasonable burden upon the agency. For this reason, §5.3(b) of the DHS regulations, 6 C.F.R. Part 5, require that you describe the records you are seeking with as much information as possible to ensure that our search can locate them with a reasonable amount of effort. Whenever possible, a request should include specific information about each record sought, such as the event that would have created the record, a date range for the request, and subject matter of the records. The FOIA does not require an agency to create new records, answer questions posed by requesters, or attempt to interpret a request that does not identify specific records.

Requesting these types of records over this broad a time frame may take several months to compile, review and redact. CBP may be able to respond to your request in a timelier manner if you reduce your time frame. This is not a denial of your request for records. Please log into your existing FOIAOnline account or create an account at <https://foiaonline.regulations.gov> and provide a narrower search range of time frame.

Please note, CBP has no way of knowing which records pertain to the three articles you mentioned in your request, requests for records pertaining to specific individuals are considered third party requests. All third party FOIA requests must include a signed G-28 or G-639 form, or a signed statement from the individual verifying that his/her information may be released to you.

This is not a denial of your request for records. So we may continue processing your request, please narrow the time frame of your search by logging into your existing FOIAOnline account or creating an account at <https://foiaonline.regulations.gov>.

You may contact a FOIA Public Liaison by sending an email via your FOIAOnline account or call 202-325-0150. Please notate file number CBP-2018-030379 on any future correspondence to CBP related to this request. 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.

Sincerely,

Jodi Drengson  
U.S. Customs and Border Protection