

EXHIBIT J



Protecting Immigrant
Women and Girls
Fleeing Violence

August 2, 2019

Chief Privacy Officer/Chief FOIA Officer
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Via Electronic Mail

FOIA Officer
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90 K Street, NE
FOIA Division
Washington, DC 20229
Via online portal

Jill Eggleston, FOIA Officer
U.S. Citizenship and Immigration Services
National Records Center, FOIA/PA Office
P.O. Box 648010
Lee's Summit, MO 64064-8010
uscis.foia@uscis.dhs.gov
Via Electronic Mail

Re: Freedom of Information Act Request

Dear FOIA Officers:

This letter constitutes a request for records made pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, by the Tahirih Justice Center ("Requester").

Requester seeks records regarding the use of United States Customs and Border Protection ("CBP") officers to conduct credible and/or reasonable fear interviews for potential asylum seekers. Under a pilot program, CBP agents have been conducting credible and/or reasonable fear screening in conjunction with U.S. Citizenship and Immigration Services ("USCIS") asylum officers. Through this FOIA request, Requester seeks to promote greater transparency regarding this program and the associated proposed practices. This request supplements our earlier request dated July 5, 2019, on the same topic.

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REQUESTER

Requester is a national multi-city non-profit organization that works to protect immigrant women and girls fleeing gender-based violence. Requester offers legal and social services and also works in policy advocacy, training, and education to promote a world in which survivors can live in safety and dignity.

REQUEST FOR INFORMATION

Requester seeks any and all records¹ that were prepared, received, transmitted, collected and/or maintained by CBP², USCIS³, and/or DHS relating to the use of CBP officers to conduct credible and/or reasonable fear interviews not covered by its earlier request dated July 5, 2019. This includes, but is not limited to, the following:

- 1) Any records related to the expansion of the pilot program under which CBP officers have conducted credible and/or reasonable fear interviews;
- 2) Any records concerning the date under which the pilot program will be expanded;
- 3) Any written policy directives, written policy guidelines, or written procedures concerning the expansion of the pilot program;
- 4) Any records referring to the location(s) in which CBP officers have conducted, are conducting, or will conduct, credible and/or reasonable fear interviews;
- 5) Any records concerning whether CBP officers have conducted, are conducting, or will conduct, credible and/or reasonable fear interviews in person, by telephone, by video teleconference, or by other means;
- 6) Any records concerning whether CBP officers have conducted, are conducting, or will conduct, credible and/or reasonable fear interviews while wearing CBP uniforms;
- 7) Any records concerning whether CBP officers have conducted, are conducting, or will conduct, credible and/or reasonable fear interviews while carrying firearms or other weapons;
- 8) Any records concerning the number of CBP officers who were trained, are being trained, or will be trained, to conduct credible and/or reasonable fear interviews;

¹ The term "records" as used herein includes, but is not limited to communications, correspondence, directives, documents, data, videotapes, audiotapes, e-mails, faxes, files, guidance, guidelines, standards, evaluations, instructions, analyses, memoranda, agreements, notes, orders, policies, procedures, protocols, reports, rules, manuals, technical specifications, training materials, and studies, including records kept in written form, or electronic format on computers and/or other electronic storage devices, electronic communications and/or videotapes, as well as any reproductions thereof that differ in any way from any other reproduction, such as copies containing marginal notations.

² The term "CBP" as used herein means CBP headquarters offices, including any divisions, subdivisions or sections therein; CBP field operations offices, including any divisions, subdivisions or sections therein; CBP offices at ports of entry, including any divisions, subdivisions or sections therein; Border Patrol stations; Border Patrol sectors; and/or any other CBP organizational structures.

³ The term "USCIS" as used herein means USCIS headquarters offices, including any divisions, subdivisions or sections therein; any USCIS offices at ports of entry, including any divisions, subdivisions or sections therein; and/or any other USCIS organizational structures.

9) Any records concerning the positions and job descriptions of the CBP officers who were trained, are being trained, or will be trained to conduct credible and/or reasonable fear interviews;

10) Any records concerning the numbers of, or percentage of, credible fear interviews in which CBP officers in the pilot program found a credible fear of return versus finding no credible fear of return, including, but not limited to, any records concerning any comparison of those numbers or percentages as between USCIS Asylum Officers and CBP Officers acting as asylum officers; and

11) Any memoranda or other records dated on or after July 5, 2019, concerning the pilot program under which CBP officers have conducted credible and/or reasonable fear interviews.

Requester requests that any records that exist in electronic form be provided in their native electronic format on a compact disc, digital video disk, or equivalent electronic medium. Requester asks that any documents stored in Portable Document Format (“PDFs”) be provided as individual files in a searchable PDF format. Finally, Requester asks that reasonable metadata—including, but not limited to, parent-child relationships between email and attachments; author information; and date and time information—be transmitted along with files. If any of the requested records or information are not kept in a succinct format, we request the opportunity to view the documents in your offices.

Requester asks that all records be provided on a rolling production schedule. Specifically, Requester requests that any records produced by the Department and its components be made available as soon as reasonably practicable, or on a timeframe agreed upon by Requester.

All requested records that are responsive may be provided with personally identifying details redacted. If, under applicable law, any of the information requested is considered exempt, 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. Requester expects the release of all segregable portions of otherwise exempt material.

REQUEST FOR WAIVER OF ALL COSTS

Requester requests that all fees associated with this FOIA request be waived. Disclosure of the information is in the public interest under the factors articulated in 6 C.F.R. § 5.11(k)(2). The requested documents concern operations or activities of the government. *See id.* § 5.11(k)(2)(i). Further, disclosure will contribute significantly to public understanding of the Program, the operations of CBP and USCIS, and the enforcement of immigration laws more generally. *See id.* § 5.11(k)(2)(ii)-(iv). Requester believes that the information requested includes a large volume of documents not yet in the public domain, and Requester has the capacity to further disseminate that information. Further, disclosure of the information is not primarily in Requester’s commercial interest. Requester is a tax-exempt, not-for-profit 501(c)(3) charitable organization.

Given that FOIA’s fee waiver requirements are to “be liberally construed in favor of waivers for noncommercial requesters,” a waiver of all fees is justified and warranted in this case. *See Judicial Watch, Inc. v. Rossotti*, 326 F.3d 1309, 1312 (D.C. Cir. 2003). If you deny the fee waiver

request, we respectfully ask for a limitation of processing fees pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II). Please inform us if the charges for this FOIA production will exceed \$25.00.

Thank you in advance for your response to this request within the time limits prescribed by 5 U.S.C. § 552(a)(6). If you have any questions, please feel free to contact me at richardc@tahirih.org or (571) 249-2131.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Richard Caldarone', with a long horizontal flourish extending to the right.

Richard Caldarone
Litigation Counsel
Tahirih Justice Center