

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

AMERICAN IMMIGRATION COUNCIL,
1331 G Street, NW, Suite 200
Washington, DC 20005

Plaintiff,

Civil Action No. _____

v.

**COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF**

U.S. CUSTOMS AND BORDER
PROTECTION,
1300 Pennsylvania Avenue, NW
Washington, D.C. 20229

and U.S. DEPARTMENT OF
HOMELAND SECURITY,
245 Murray Lane, SW
Washington, DC 20528-0075
Defendants.

INTRODUCTION

1. This is an action under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552 *et seq.*, seeking to compel U.S. Customs and Border Protection (“CBP”), a component of the U.S. Department of Homeland Security (“DHS”), to immediately release records relating to the agency’s implementation and use of the CBP One mobile application (“CBP One” or “the app”).

2. CBP One is a mobile application developed by CBP to collect information about individuals who interact with CBP in specific ways. CBP launched CBP One on October 28, 2020 and has added different functions to the app since that time.¹

3. CBP's website currently lists only three functions for CBP One: 1) cargo carriers can use the app to schedule appointments with CBP personnel for inspections of cargo; 2) travelers can use the app to obtain information about their arrival and departure records, otherwise known as an I-94; and 3) international organizations can use the app to verify whether individuals are enrolled in the Migrant Protection Protocols ("MPP"),² a widely criticized U.S. government program that forces individuals seeking asylum in the United States at ports of entry on the southern border to return to Mexico for the duration of their immigration proceedings.

4. Apart from this limited information available on its website, CBP has failed to provide easily accessible and consistent information to the public about CBP One, including other current or future uses for the app and any plans to use the information it collects through the app.

5. The public can only infer the agency's plans from information scattered in different sources.

6. DHS published a Privacy Impact Assessment (PIA) about the app on February 19, 2021, which the agency updated on February 26 and May 7. The PIA describes additional app features not listed on the webpage.

¹ Press Release, U.S. Customs and Border Protection, CBP Announces the Addition of I-94 Features to CBP One Mobile App (June 11, 2021), <https://www.cbp.gov/newsroom/national-media-release/cbp-announces-addition-i-94-features-cbp-one-mobile-app>.

² U.S. Customs and Border Protection, CBP One™ Mobile Application, <https://www.cbp.gov/about/mobile-apps-directory/cbpone>.

7. For example, the PIA announced that CBP would launch a pilot program by spring 2021 that would allow travelers to self-report their exits from the United States at certain ports of entry on the northern border by capturing users' geolocation data from their phones using CBP One. U.S. Dept. of Homeland Security, Privacy Impact Assessment for the CBP One™ Mobile Application 2 (Feb. 19, 2021), <https://www.dhs.gov/sites/default/files/publications/privacy-pia-cbp068-cbpmobileapplication-may2021.pdf>. CBP did not mention this pilot program in its February 22, 2021 press release about the app.

8. Additionally, the PIA states that Transportation Security Administration (TSA) supervisors can access CBP One's facial recognition technology to verify MPP enrollees' authorization to travel within the United States. *Id.* at 21.

9. The PIA also revealed that CBP One could be used by international organizations to collect and submit to CBP information of individuals seeking waivers of exclusion implemented under a Title 42, which allows the director of the Centers for Disease Control and Prevention (CDC) to "prohibit...the introduction" into the United States of individuals who might spread a communicable disease.

10. Other functions can be inferred from CBP's September 28, 2021, request for public comment regarding collection of information from individuals at the border. Information Collection Request, 86 Fed. Reg. 53667 (Sept. 28, 2021). For example, the collection of information request suggests CBP One could be used by noncitizens who request to present themselves at a specific port of entry for processing to modify the date and time of the appointment, a function of the app not described in the PIA. *Id.* In the information request, CBP also announces its plan to expand the pool of noncitizens who could provide biometric and biographic information in advance of their arrival at ports of entry. In addition to those seeking

waivers of the prohibition to processing under Title 42, any undocumented noncitizens who would be processed under Title 8 could submit information in advance. *Id.* CBP's request for comments does not say explicitly that CBP One will be used to collect this information in advance, even though such function has been available to those who seek waivers under Title 42.

11. Further, CBP failed to publicize on its webpage certain capabilities employed by CBP One to perform its functions.

12. For example, the CBP One features created to identify MPP enrollees utilize facial recognition technology. International organizations' staff used the app to verify whether immigrants were enrolled in MPP by submitting photographs of immigrants, which are then compared with pictures in existing DHS databases. DHS, *supra* at 16 – 17. The app also allows international organizations to use the app's facial recognition to identify individuals seeking entry into the United States and are applying for exceptions to expulsions under Title 42. Information explaining that the photos of noncitizens submitted through CBP One are stored in the agency's databases and detailing how long they are kept in these databases is difficult to find.

13. CBP's webpage describing CBP One does not fully inform app users or the public about the agency's plans to expand the app's features and uses.

14. According to the PIA, CBP plans to "eventually replace and upgrade existing CBP public-facing mobile applications to improve user interaction and services," with CBP One. *Id.* at 1. As CBP adds functionality, however, it has not informed the public about the full scope of the app's current uses or how it plans to deploy the app in the future.

15. When Plaintiff requested information through FOIA about CBP One's current uses and plans for future use, CBP failed to respond in a manner prescribed by the FOIA.

JURISDICTION AND VENUE

16. This Court has jurisdiction pursuant to 5 U.S.C. § 552(a)(4)(B), and 28 U.S.C. § 1331.

17. This Court has jurisdiction to grant declaratory and further proper relief pursuant to 5 U.S.C. §552(a)(4)(B), 28 U.S.C. §§ 2201-2202 and Federal Rules of Civil Procedure 57 and 65.

18. Venue is proper in this district pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1391(e)(1)(C) because the Council’s principal place of business is in the District of Columbia.

PARTIES

19. Plaintiff American Immigration Council (“the Council”) is a tax-exempt, not-for-profit educational and charitable organization under Section 501(c)(3) of the Internal Revenue Code. Its principal place of business is in Washington, D.C. The Council was established to increase public understanding of immigration law and policy, advocates for the fair and just administration of U.S. immigration laws, protects the legal rights of noncitizens and citizens, and educates the public about the enduring contributions of immigrants. Through research and analysis, the Council has become a leading resource for policymakers at the national, state, and local levels who seek to understand the power and potential of immigration and to develop policies that are based on facts rather than myths. The Council also seeks to hold the government accountable for unlawful conduct, restrictive interpretations of the law, and for failing to ensure that the immigration laws are implemented and executed in a manner that comports with due process through the pursuit of transparency and impact litigation.

20. Defendant DHS is a department of the executive branch of the United States government and is an agency within the meaning of 5 U.S.C. § 552(f).

21. DHS is responsible for enforcing federal immigration laws.

22. Upon information and belief, DHS has possession and control over the records sought by the Plaintiffs in the FOIA Request.

23. Defendant CBP is a branch of DHS and is likewise an agency within the meaning of 5 U.S.C. § 552(f).

24. Among other duties, CBP is responsible for enforcing immigration laws at the borders and other ports of entry into the United States.

25. CBP inspects individuals seeking entry into the United States, including U.S. citizens, lawful permanent residents, nonimmigrants, and asylum seekers.

26. Upon information and belief, CBP has possession of and control over records requested by Plaintiffs.

PLAINTIFF'S FOIA REQUEST

27. The Council filed a request for information under the Freedom of Information Act ("FOIA") with CBP on July 29, 2021 (the "FOIA Request").

28. The FOIA request sought records about the efficiency and accuracy of the facial recognition technology employed by CBP One. It also requested information relating to the app's development and plans for the use of the app's tools, such as its GPS tracking tool. Finally, the Council requested records relating to CBP's implementation of the app, such as training materials and protocols for the app's use. The FOIA request is attached as Exhibit A and incorporated herein by reference.

DEFENDANT CBP'S FAILURE TO RESPOND

29. CBP sent Plaintiff a receipt notice on July 29, 2021, documenting receipt of Plaintiff's FOIA request and assigning it a receipt number, CBP-2021-089142. A copy of CBP's letter is attached as Exhibit B.

30. On August 2, 2021, Plaintiff received notice that CBP deemed the request for a fee waiver "not applicable" because the request was not billable.

31. Plaintiff received an email from CBP on September 22, 2021, notifying that the agency changed the tracking number of the request from CBP-2021-089142 to CBP-OFO-2021-089142.

32. Via a separate email on September 22, CBP sent Plaintiff an acknowledgement letter for the request CBP-OFO-2021-089142. In the acknowledgement letter, CBP stated that while the agency's goal was to respond within 20 business days of receipt of the Council's request, it would invoke a 10-day extension pursuant to 6 C.F.R. § 5.5(c). This acknowledgement letter is attached as Exhibit C.

33. On October 25, 2021, Plaintiffs reached out telephonically to request an update regarding the FOIA request.

34. The next day, Plaintiffs received an email from the CBP FOIA Division requesting Plaintiffs to narrow the scope of the request.

35. Plaintiffs replied to the CBP FOIA Division's petition to narrow the scope of the Request on November 1, 2021, agreeing to certain suggestions presented by the CBP FOIA Division's October 26 email and rejecting part of its suggestions.

36. Plaintiffs have not received any communication or other response to the FOIA Request since October 26, 2021.

37. This action is ripe for adjudication because none of CBP's communications with Plaintiff, i.e. the acknowledgement of receipt of a FOIA request and CBP's request to narrow the FOIA request, are a "determination" under FOIA that would require Plaintiffs to exhaust their administrative remedies. *See Citizens for Responsibility & Ethics in Washington v. Fed. Election Comm'n*, 711 F.3d 180 (D.C. Cir. 2013) (Kavanaugh, J.).

FIRST CAUSE OF ACTION
**Violation of Freedom of Information Act
for Failure to Respond within the Time Required**

38. Plaintiffs hereby incorporate each of the foregoing paragraphs as if fully set forth herein.

39. Within 20 days (excluding Saturdays, Sundays, and legal public holidays) after receiving the FOIA Request, CBP was required under 5 U.S.C. § 552(a)(6)(A)(i) to determine whether to comply with the request and to notify the Plaintiffs of its determination and the reasons therefor and of their rights to appeal any adverse determination administratively.

40. None of the communications that the Plaintiff received from CBP contained the requisite determination required by 5 U.S.C. § 552(a)(6)(A)(i).

41. Defendants' failure to respond within the statutory time limit violates 5 U.S.C. § 552(a)(6)(A), as well as the regulations promulgated thereunder.

SECOND CAUSE OF ACTION
**Violation of Freedom of Information Act
for Failure to Conduct a Reasonable Search and to Disclose Responsive Records**

42. Plaintiffs hereby incorporate each of the foregoing paragraphs as if fully set forth herein.

43. Defendants were required under 5 U.S.C. § 552(a)(3) to conduct a reasonable search for records responsive to the FOIA Request, and promptly to produce them to Plaintiffs,

including in the format specified in the FOIA Request if the records are readily reproducible in that format.

44. CBP has not conducted a reasonable search for records responsive to the FOIA Request.

45. CBP has not produced any records responsive to the FOIA Request.

46. CBP has not produced any responsive records in the format requested by Plaintiffs.

47. Plaintiffs have a legal right to obtain the records requested in the FOIA Request, and no legal basis exists for Defendants' failure to search for and disclose them.

48. Defendants' failure to conduct a reasonable search for and to produce records responsive to Plaintiffs' request violates 5 U.S.C. § 552(a)(3), as well as the regulations promulgated thereunder.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff request that judgment be entered in its favor and against Defendants, and that the Court:

a. Declare that Defendants' failure to respond to the FOIA Request within the statutory time limit, their failure to search for records responsive to the Plaintiff's request, and their failure to disclose such responsive records violate FOIA;

b. Order Defendants and any of Defendants' departments, components, other organizational structures, agents, or other persons acting by, through, for, or on behalf of Defendants to conduct a prompt, reasonable search for records responsive to the FOIA Request;

c. Enjoin Defendants and any of Defendants' departments, components, other organizational structures, agents, or other persons acting by, through, for, or on behalf of

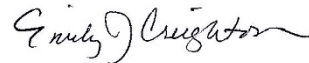
either Defendant from withholding records responsive to the FOIA Request and order Defendants promptly to produce the same;

d. Award Plaintiff reasonable attorneys' fees and costs pursuant to 5 U.S.C. § 552(a)(4)(E) and 28 U.S.C. § 2412; and

e. Grant all other such relief to the Plaintiffs as the Court deems just and equitable.

Dated: December 20, 2021

Respectfully submitted,



Emily Creighton (Bar No. 1009922)
AMERICAN IMMIGRATION COUNCIL
1331 G Street, N.W., Suite 200
Washington, DC 20005
(202) 507-7514 (phone)
(202) 742-5619 (fax)
ecreighton@immcouncil.org

Counsel for Plaintiff

EXHIBIT A



July 29, 2021

Sent Via FOIAOnline:

**U.S. Customs and Border Protection
Freedom of Information Act Office**

Re: Freedom of Information Act Request Regarding U.S. Customs and Border Protection Implementation of CBP ONE™ Mobile Application

The American Immigration Council (“Council”) submits this request for information under the Freedom of Information Act (“FOIA”) regarding Customs and Border Protection’s (“CBP”) implementation of the CBP One™ Mobile Application (“CPB One”). On October 28, 2020, CBP launched CBP One as a multi-purpose tool for travelers entering and exiting the U.S.¹ One of the current features of CBP One, is a tool to process individuals enrolled in the Migrant Protection Protocols (“MPP”).² In order to access some of the application’s features, CBP One asks users to voluntarily utilize facial-recognition technology as well as submit geolocation data to complete CBP One’s functions.³ CBP requested emergency approval for the collection of information of individuals the agency processes at ports of entry, and CBP implemented the use of CBP One to accomplish this task.⁴

Pursuant to 5 U.S.C. § 552(a)(6)(A)(i), we request that the agency respond to this request within twenty (20) working days, unless otherwise permitted by statute. We also request a fee waiver in connection with this request pursuant to 5 U.S.C. § 552(a)(4)(A)(iii) and 5 U.S.C. § 552(a)(4)(A)(ii)(II).

¹ U.S. Customs and Border Protection, Dept. of Homeland Security, CBP One™ Mobile Application (Feb. 22, 2021) available at <https://www.cbp.gov/about/mobile-apps-directory/cbpone>.

² Id.

³ U.S. Dept. of Homeland Security, Privacy Impact Assessment for the CBP One™ Mobile Application 7 (Feb. 19, 2021) available at <https://www.dhs.gov/sites/default/files/publications/privacy-pia-cbp068-cbpmobileapplication-may2021.pdf>.

⁴ Memorandum from William Ferrara, Executive Assistant Commissioner Office of Field Operations U.S. Customs and Border Protection to Sharon Black, Acting Administrator, Office of Information and Regulatory Affairs Office of Management and Budget 2 (May 2, 2021).

I. REQUEST FOR INFORMATION

The Council seeks the following records⁵ from CBP:

Documents relating to certain technologies used by CBP One

- a. Records, including but not limited to reports, received by CBP from the Department of Homeland Security's ("DHS") Science and Technology Directorate, any other component of DHS, or the National Institute of Standards and Technology, relating to the efficacy of facial-recognition technology.
- b. Records analyzing results of the 2018 facial recognition technology pilot known as the Vehicle Face System employed at the Anzalduas, Texas port of entry.
- c. Records analyzing results of CBP's Sprint 8 pilot program deploying facial recognition technology in 2017.
- d. Records discussing the September 2020 Government Accountability Office's Report to Congressional Requesters on facial recognition technology.
- e. Records documenting and/or addressing racial disparities generated by the use of facial-recognition technology.

2. Pre-implementation documents

- a. Records prepared, received, transmitted, collected and/or maintained by Customs and Border Protection relating to the development of CBP One.
- b. Records, including but not limited to reports received by CBP from Dept. of Homeland Security's Science and Technology Directorate ("Science and Technology") relating to the development of CBP One.
- c. Records relating to purported uses for CBP One, including any plans to add features to the mobile application or to expand the uses of CBP One.
- d. Records relating to the use of CBP One to improve the processing of travelers, including but not limited to MPP enrollees or processing of I-94s.
- e. Records discussing the use of alternatives to the implementation of CBP One.
- f. Records relating to CBP's use of CBP One's geolocation tracking feature, including but not limited to the mobile application's function of sending a user's GPS coordinates to CBP when a user submits entry or exit information.

⁵ The term "records" as used herein includes all records or communication maintained in electronic or written form, including but not limited to correspondence, directives, data, videotapes, audiotapes, emails, faxes, files, guidance, guidelines, standards, evaluations, instructions, analyses, memoranda, agreements, notes, orders, policies, procedures, protocols, reports, rules, technical manuals, training manuals, technical specifications, training materials or studies, preserved by CBP on agency computers and/or other electronic storage devices.

3. Implementation of CBP One

- a. Training materials including records with instructions relating to the use of CBP One, provided to CBP staff regarding the use of the mobile application.
- b. Training materials including records with instructions relating to the use of CBP One, provided to international organizations, as the term is used in CBP's website, that will use CBP One to process individuals enrolled in MPP.
- c. Any training materials provided to broker/carriers/forwarder agents or operators with instructions as to the use of CBP One.
- d. Records relating to user requirements necessary to use CBP One.
- e. Records relating to the voluntary use of CBP One features by travelers and broker/carriers/forwarder agent or operators, including but not limited to plans by the agency to make the use of facial-recognition technology mandatory at a later date.
- f. Records relating to the development of the Privacy Impact Assessments ("PIA") for both for CBP One (DHS Reference No. DHS/CBP/PIA-068) and for Processing Individuals Subject to MPP (DHS Reference No. DHS/CBP/PIA-070).
- g. Records relating to the need to implement CBP One as an emergency measure, including but not limited to, records discussing CBP One as a tool to achieve the goals described in the CBP memorandum signed on May 2, 2021, by William Herrera, Executive Assistant Commissioner Office of Field Operations.
- h. Records created or received by CBP addressing CBP One's effectiveness thus far.
- i. Records discussing CBP's policies, protocols or plans on the sharing of information captured by any of CBP One's features with other law enforcement agencies.
- j. Records relating to the storage or maintenance of a user's GPS location data during times when the user has not submitted or logged his or her location with CBP through CBP One.

II. **REQUEST FOR FEE WAIVER**

The Council asks that the agency waive all fees associated with this FOIA request. Such a waiver is warranted 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).

The Council is a non-profit organization without a commercial interest in the release of this information. The Council has the demonstrated ability to synthesize the information received via this FOIA request for release to and access by the public without charge.

1. Disclosure of the Information Is in the Public Interest

This FOIA request seeks information that will contribute significantly to public understanding of government operations and activities regarding CBP's use of this mobile application. While CBP has published some information relating to CBP One, it does not thoroughly explain the purpose and uses of this new mobile application. CBP published a PIA for CBP One on February 19, 2021, discussing the application's uses and potential privacy risks.⁶ CBP also published screenshots of the applications uses⁷ and explained the agency's justification for fast-tracking the use of the application in documents submitted through the Office of Management and Budget ("OMB").⁸ The documents do not address, however, CBP plans to expand the use of the technology featured in CBP One. Further, the documents fail to address the efficacy of facial recognition technology, despite studies showing that algorithms in facial recognition technology misidentified darker-skinned females at rates up to 35% higher than lighter-skinned males.⁹ The Government Accountability Office's September 2020 report admitted that CBP's pilot programs to implement facial recognition technology did not meet the performance goal of capturing 97 percent of travelers.¹⁰ Neither the PIA or other published record addresses whether CBP will make sure travelers who use the facial recognition technology in CBP One will not be misidentified.

Furthermore, CBP's published information is difficult to access. Much of the information available relating to CBP One is often labeled as pertaining to MPP, which is then not to linked to publications relating to CBP One. For example, the CBP One webpage on cbp.gov only links to the CBP One PIA, even though the PIA titled Processing Individuals Subject to MPP (DHS Reference No. DHS/CBP/PIA-070) contains substantial information about how CBP One will be used. Some explanatory documents are located in the OMB Report website, which is difficult to find and also not linked to the CBP One webpage. The scattered availability of the information about CBP One underscores the public's need for a fuller picture of the program.

The Council seeks disclosure of the requested information to advance the general public's understanding of how this new technology will be utilized by CBP and other governmental entities like the Transportation Security Administration, as well as highlighting

⁶ See *Supra* n. 1.

⁷ U.S. Customs and Border Protection, Dept. of Homeland Security, CBP One™ Submit Advance Information (April 29, 2021) *available at* <https://omb.report/icr/202104-1651-001/doc/111264101>.

⁸ U.S. Customs and Border Protection, Dept. of Homeland Security, Supporting Statement Collection of Advance Information from Certain Undocumented Individuals on the Land Border (May 4, 2021) *available at* <https://omb.report/icr/202104-1651-001/doc/111314801>.

⁹ Alex Najibi, *Racial Discrimination in Face Recognition Technology*, BLOG, SCIENCE POLICY, SPECIAL EDITION: SCIENCE POLICY AND SOCIAL JUSTICE (Oct. 24, 2020) *available at* <https://sitn.hms.harvard.edu/flash/2020/racial-discrimination-in-face-recognition-technology/>.

¹⁰ United States Government Accountability Office, *Facial Recognition CBP and TSA are Taking Steps to Implement Programs, but CBP Should Address Privacy and System Performance Issues*, Sept. 2020 *available at* <https://www.gao.gov/assets/gao-20-568.pdf>.

the efficiency of the proposed technology. The Council is a non-profit organization established to increase public understanding of immigration law and policy, advocate for the fair and just administration of our immigration laws, protect the legal rights of noncitizens and citizens, and educate the public about the enduring contributions of immigrants. The Council is a leading resource for analyzing and disseminating information about government practices to ensure accountability, and we regularly provide information to the public based on its FOIA requests.

In accordance with the Council's mission, the information requested from this FOIA will be readily available on the Council's website and will be shared with all interested members of the public. The Council will also post analysis of the information obtained through this FOIA request in a way that is easily accessible to the public. In calendar year 2020, the Council's website received more than 2.4 million pageviews from more than 1.4 million visitors. The Council also has regular contact with national print and news media and plans to share information gleaned from FOIA disclosures with interested media.

2. Disclosure of the Information Is Not Primarily in the Commercial Interest of the Requester

The Council is a not-for-profit organization and has no commercial interest in the present request. We seek the requested information for the purpose of disseminating it to members of the public and not for the purpose of commercial gain. Like all other reports and information available on the Council's website, information received in response to this FOIA request will be available to immigration attorneys, noncitizens, policymakers, and other interested members of the public free of charge. 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.

III. EXEMPTIONS

If CBP withholds records based on its assessment that statutory exemptions apply to any of the records requested, please describe in detail the nature of the records withheld and the specific exemption or privilege upon which the record is withheld. If any portion(s) of the requested records are determined to be exempt, please provide the non-exempt portions. 5 U.S.C. §552(a)(8)(A)(ii)(II).

IV. FORMAT OF PRODUCTION

Electronic versions in the native format of the requested documents are preferred. For documents which are not available in this format, please provide records electronically in a text-searchable, static-image format (PDF). Please also provide any data in a workable format, such as Microsoft Excel. If terms or codes are not in the form template and/or publicly

defined, please provide a glossary or other descriptive records containing definitions of acronyms, numerical codes, or terms contained in data responsive to this request.

We appreciate your prompt attention to this request. If you have any questions regarding this request, you may contact me at (202) 507-7549 or via email at rpinto@immcouncil.org.

Very truly yours,

/s/ Raul A. Pinto
Senior Staff Attorney

EXHIBIT B

Raul Pinto

From: no-reply@foiaonline.gov
Sent: Thursday, July 29, 2021 2:01 PM
To: Raul Pinto
Subject: FOIA Request CBP-2021-089142 Submitted

This message is to confirm your request submission to the FOIAonline application: [View Request](#). Request information is as follows:

- Tracking Number: CBP-2021-089142
- Requester Name: Mr. Raul Pinto
- Date Submitted: 07/29/2021
- Request Status: Submitted
- Description: The American Immigration Council is seeking information relating to CBP's implementation of the mobile application CBP One. Please see the enclosed request for further detail.

EXHIBIT C

Mr. Raul Pinto

1331 G Street NW, Suite 200
Washington, DC, 20005

09/22/2021

CBP-OFO-2021-089142

Dear Mr. Raul Pinto:

This notice acknowledges receipt of your Freedom of Information Act (FOIA) request to U.S. Customs and Border Protection (CBP) received on 07/29/2021. Please use the following unique FOIA tracking number CBP-OFO-2021-089142 to track the status of your request. If you have not already done so, you must create a FOIAonline account at <https://foiaonline.gov>. This is the only method available to check the status of your pending FOIA 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/documents/2016/11/22/2016-28095/freedom-of-information-act-regulations>. 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.

Due to the increasing number of FOIA requests received by this office, we may encounter some delay in processing your request. Consistent with 6 C.F.R. Part 5 §5.5(a) of the DHS FOIA regulations, 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 §5.5(c). [As your request seeks documents that will require a thorough and wide-ranging search, CBP will invoke a 10-day extension for your request pursuant to 6 C.F.R. Part 5 §5.5(c). If you would like to narrow the scope of your request, please contact our office. We will make every effort to comply with your request in a timely manner.] **OR** [As your request seeks a voluminous amount of separate and distinct records, CBP will invoke a 10-day extension for your request pursuant to 6 C.F.R. Part 5 §5.5(c). If you would like to narrow the scope of your request, please contact our office. We will make every effort to comply with your request in a timely manner.] **OR** [As the subject matter of your request is of substantial interest to two or more components of CBP or of substantial interest to another agency, we will need to consult with those entities before we issue a final response. Due to these unusual circumstances, CBP will invoke a 10-day extension for your request pursuant to 6 C.F.R. Part 5 §5.5(c). If you would like to narrow the scope of your request, please contact our office. We will make every effort to comply with your request in a timely manner.]

CBP's FOIA Division is working hard to reduce the amount of time necessary to respond to FOIA requests. We truly appreciate your continued patience.

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

Sincerely,

U.S. Customs and Border Protection