

DECLARATION OF JACQUELINE STEVENS

I, Jacqueline Stevens, state and declare under penalty of perjury that the following is true and correct:

1. I am a named Plaintiff in the Complaint under the Freedom of Information Act ("FOIA").

I have been a tenured full professor in the Political Science Department at Northwestern University ("Northwestern") since 2010. In 2012 I became the founding Director of the Deportation Research Clinic, Buffet Institute for Global Affairs, Northwestern University ("Clinic").

2. I make this declaration based on personal knowledge and observations as stated herein. Further, this Declaration contains my professional opinions on certain topic for which I have specialized knowledge based on my education, professional experience, expertise, and research.

3. If called to testify I could and would testify to each of the facts stated within this Declaration.

4. My scholarship focuses on laws and theories of membership in political societies since antiquity, especially policies that mobilize state violence on behalf of intergenerational groups and histories, e.g., nations. My publications in popular and academic venues frequently analyze information about government operations. My research practice includes regular requests under the FOIA. My findings have been featured in numerous newspaper, magazine, radio, and television reports, including those of the *New Yorker*, *New York Times*, *Washington Post*, *Guardian*, *Columbia Journalism Review*, NPR, PBS, and CNN. My monographs have been published by Columbia University Press and Princeton University Press.

5. My scholarly articles have appeared in highly selective venues, including the *American Political Science Review*, *Georgetown Immigration Law Journal*, and *Perspectives on Politics*. I have published in the field of public health and in 1997-1999 was a Robert Wood Johnson Health Policy Scholar at Yale University. In 2013 I was awarded a Guggenheim Fellowship.

6. A statement on the Clinic website states: "The Clinic conveys useful, timely, intelligent research on misconduct in deportation proceedings to affected communities, journalists, policymakers, and scholars ... The Clinic's research mission is rooted in public health approaches to theorizing and addressing community-level risks and interventions."¹ Public health experts use individual-level information to help patients and to assist in community-level interventions. Information obtained for the purpose of assisting individuals who report experiencing government misconduct is used to provide analyses for addressing systemic problems in the government, including incompetence, nativism, and racism. The same webpage also quotes from an article written by Chief Justice Louis Brandeis: "Publicity is justly commended as a remedy for social and industrial diseases. Sunlight is said to be the best of disinfectants; electric light the most efficient policeman."²

7. This Declaration is made to support my Complaint seeking preliminary injunctive relief and in response to the Defense Motion for Summary Judgment and in support of my cross-motion for Summary Judgment as well as any other relief the court deems equitable.

Department of Health and Human Services

2020-00435-FOIA-OS — Lauren Underwood

1 "Research Goals," <https://deportation-research.buffett.northwestern.edu/research/index.html>.

2 Chief Justice Louis Brandeis, "What Publicity Can Do," *Harper's Weekly* (December 20, 1913).

8. I have received no records responsive to my request of December 11, 2019 submitted to the Department Health and Human Services and assigned case number **2020-00435-FOIA-OS**. Doc. 1, 9/16/2022 (“Complaint”) ¶¶20-21. It has been 864 working days since I submitted my request.

9. I have received no communications about the status of **2020-00435-FOIA-OS** since the commencement of litigation.

Customs and Border Protection

CBP-2022-080265 — Toan Hoang

10. I have received no records responsive to my request of March 10, 2022 submitted to Customs and Border Protection (“CBP) and assigned case number **CBP-2022-080265**.

11. A letter I received on March 20, 2022 from a CBP email address indicating that my request did not include a Third Party Waiver was not signed and was sent in error. In addition to uploading Hoang’s Third Party Waiver via the CBP FOIA portal on March 10, 2022, as reflected in the CBP generated output (“Ex. 1”), I also sent the request and Privacy Waiver as an attachment to an email request on that same date. Email from Jacqueline Stevens to cbpfoia@cbp.dhs.gov, March 10, 2022 (“Ex. 2”).

12. Defendant CBP statements in the Answer denying I submitted the Third Party Waiver are demonstrably false. Defense Answer, Doc 15, 11/10/22 (“Answer”), ¶¶26, 28.

13. It has been 311 working days since I submitted my request tracked as **CBP-2022-080265**.

14. I have received no communications about the status of **CBP-2022-080265** since the commencement of this litigation.

2020-HQFQ-00215 — Lauren Underwood

15. I have received no records responsive to my request of November 22, 2019 the Department of Homeland Security assigned tracking number **2020-HQFQ-00215** in a letter indicating that my request was being forwarded to CBP. Complaint, ¶¶29-35.

16. It has been **871 days** since DHS HQ on December 2, 2019 stated CBP was being forwarded my request and I have received no responsive documents.

17. I have received no communications about the status of **2020-HQFQ-00215** since the commencement of this litigation.

Immigration and Customs Enforcement

First Interim Release

18. The December 14, 2022 cover letter for the “First Interim Release” references the contents as “ICE FOIA Case Number 2022-ICLI-00003.” (“Ex. 3.)

19. None of the requests I submitted were assigned a tracking number of **2022-ICLI-00003**.

20. The letter indicates enclosed records are responsive to FOIA requests to which ICE assigned the case numbers: **2022-ICFO-08985**, **2020-ICFO-09447**, and **2022-ICFO-27065**. Ex.

3.

21. The files for the First Interim Production are password protected, which makes it impossible to produce pdf outputs for exhibits. The cover letter provides no reason for the password protection. Ex. 3.

22. As a result of the password protection, I am unable to share the portions specific to Pascal Charpentier with the public or the WNYC reporter. I cannot share the entire file without violating the confidentiality and privacy expectations of the other individuals whose records are included in this release.

23. The first pdf includes records for three separate individuals.

24. Entire pages are redacted based on several alleged exemptions with no indication of the individual associated with the redacted pages or their context. Below is a screenshot from this production.

Page 48
Withheld pursuant to exemption
(b)(6) ; (b)(7)(C) ; (b)(7)(E)
of the Freedom of Information and Privacy Act

2023-ICLI-00003 0059

25. Two pages redacted in their entirety based on the assertion of exemption b(5) are from a proposed media release. “PROPOSED STATEMENT: (Cleared by OPA Privay – 10/2).” ICE-ICLI-00003, Bates 66. (“Bates page number”).

26. Text below “On background” in a chain about the release of information to a WNYC reporter is redacted based on the alleged exemption of b(5). The signature line indicates “Public Affairs Officer/Spokesperson.” Bates 73-74.

27. ICE redacted in its entirety an email received on April 15, 2021 from an email address REDACTED@us.af.mil. The email indicates it originated outside ICE. The subject heading is “Re: Request for Assistance - Claim to US Citizenship by Child of Air Force member.” Bates 89.

28. When agencies have under their control records from another agency or component, FOIA regulations obligate the agency with the responsive records to consult or coordinate with the originating agency for purposes of review.³

29. For this and other email messages originating with other agencies in this release, ICE redacted all or part and did not indicate in its cover letter any coordination with the originating agency. Ex. 3.

Miguel Silvestre - no tracking number

30. I have received four pages of records responsive to my request for information on U.S.-born citizen Miguel Silvestre, deported to Mexico by ICE. On information and belief, records responsive to my request will be over 1,000 pages.

31. Prior to litigation I received no tracking number, no responsive records, and no explanation for the failure to produce responsive records. Complaint ¶¶36-40. In its Answer, Defendant confirms that ICE produced no records prior to the commencement of this litigation, nor explained why they were withheld. Answer ¶40.

32. The four pages contain half-page printouts from a database, numerous redactions, and were produced over **368 working days after ICE received my request and 59 days after commencing litigation.**

³ See “Disclosure of Records and Information,” Part V, 6 CFR 5.4(d).
<https://www.ecfr.gov/current/title-6/chapter-I/part-5>

2022-ICFO—08985 – Toan Hoang

33. I have received approximately 50 pages of records responsive to my request for information on U.S. citizen Toan Hoang. On information and belief, records responsive to my request will be over 1,000 pages.

34. The pages include numerous redactions, and were produced **191 working days after ICE received my request and 59 days after commencing litigation.**

35. ICE admits that it produced no records responsive to my request prior to litigation.

Answer ¶46.

2022-ICFO-27065 – Pascal Charpentier

36. ICE has produced to me records responsive to my request for information in Interim Productions 1, 2, 3, 4, and 5. The Fifth Interim Production was sent to my attorney 14 days after the court's deadline. The Sixth Interim Production included "O pages."

Fifth Interim Production

37. On May 4, 2023 I sent an email to my attorney indicating that I had not received anything from ICE responsive to the court's order of March 30, 2023 that ICE to "process 1,500 pages of documents responsive to Stevens's FOIA request per month until production is complete." Judge Matthew Kennelly, Order, Doc. 34, 03/30/23 ("Order"), p. 20.

38. On May 5, I received an email from my attorney stating, "1500 page production went out on 27 April, according to Alex, and he is looking to find out if there is a fedex tracking number."

39. Attached to the email was a pdf for a letter addressed to Nicolette Glazer in Century City. It is dated April 27, 2023 and captioned "Fifth Interim Release." "Ex. 4."

40. ICE never sent to my attorney by email, Fed-Ex, or any other carrier the letter dated April 27, 2023, according to information my attorney shared with me.

41. ICE on other occasions has sent cover letters with dates that precede by weeks or even months the dates on which records were actually sent.

42. On May 15, 2023, my attorney shared with me via e-mail an online link to a folder on a file-sharing host a production of Charpentier's records referenced in the letter dated April 27, 2023 and received by her on that same date, over two weeks after the court ordered their production. On information and belief, she obtained these documents from the Assistant U.S. Attorney and not from ICE, unlike productions in other FOIA litigation against ICE involving the same Assistant U.S. Attorney .

43. Productions from the Executive Office of Immigration Review pursuant to this litigation have been sent to me directly.

44. The letter states: "For this production ICE and the Department of Justice reviewed 1575 pages of potentially responsive documents. Of those that ICE reviewed 1575 potentially responsive pages and determined that 120 are considered non-responsive; 795 pages were duplicates, 144 pages will be released in full, 22 pages will be withheld in full and the remaining 494 pages will be withheld in part pursuant to FOIA Exemptions 5, 6, and 7(C) and 7(E) as described below. A total of 660 pages have been Bates numbered 2023-ICLI-00003 1516 through 2023-ICLI-00003 2175." Ex. 4, p. 2.

45. No details are provided for the exemptions asserted for the 22 pages withheld in full, including whether the determination was by ICE or the Department of Justice. Moreover, the documents with asserted redactions include court records publicly available, e.g., Joint Status

Letter sent to sent to the Honorable Gregory H. Wood “via ECF,” November 24, 2020, Bates 2133-35.

46. The records produced for the Fifth Interim Production, heavily redacted, indicate that the same ICE attorneys filing motions and appearing in hearings associated with the deportation proceedings of Pascal Charpentier were communicating with FOIA officers from the State Department and U.S. Citizenship and Immigration Services about the release of files being sought by Charpentier’s then-attorney Julie Goldberg (“Goldberg”).

47. The communications released to me in the in the Fifth Interim Release indicate that USCIS on October 27, 2020 informed the ICE trial attorney USCIS had finalized a release of responsive records Charpentier’s attorney requested but had not released them. (“Case processing is finished. NRC has not sent the responsive record to the requestor yet REDACTED reviewed the case yesterday and said it is ready for final action and mailing.”) Bates 1642-43.

48. During Charpentier’s immigration court hearings, Goldberg indicated to the presiding Department of Justice attorneys that the failure of agencies to release responsive documents prevented her from presenting evidence of Charpentier’s claim to U.S. citizenship consistent with his biography and those of his parents and grandparents.

49. Email in the Fifth Interim Release indicates ICE trial attorneys trying to deport Charpentier were sharing with the AUSA details and documents ICE filed with the immigration court. An email of November 3, 2020 over the signature line Assistant Chief Counsel states, “Hi AUSA [redacted], Pleasure to talk with you. As discussed, please see the attached DHS brief in opposition to the respondent’s motion to terminate. Also, I have attached the IJ’s decision denying his motion to terminate and also finding that he is subject to mandatory detention.”

Email of November 3, 202 from” [REDACTED] to [REDACTED] @usdoj.gov, Subject: “Pascal Charpentier immigration proceedings.” “Ex. 5,” p. 2.

50. An email from “USANYS” references a joint status letter on the FOIA case and provides dates for the upcoming federal court hearings, adding: “But that is still in advance of the 12/29 requested filing of the Immigration Court. I’ll keep you in the loop as to what happens with regards to the letter and the conference, and be in touch later in December.” Email from “[Redacted] (USANYS)” to [REDACTED IN ITS ENTIRETY EMAIL], Dec. 3, 2020. Bates 2143.

51. May 25, 2023 was the deadline for Charpentier to submit his appeal of the order of removal to the Board of Immigration Appeals, a component of the Executive Office of Immigration Review housed in the Department of Justice.

52. ICE in other cases has failed to promptly release or acknowledge evidence probative of U.S. citizenship. In the case of Roberto Carlos Dominguez (“Dominguez”), born in Lawrence, Massachusetts, ICE insisted on Dominguez’s alienage until the day before his case was set to be heard in federal district court in Massachusetts, even though nothing in the way of evidence had changed since the case first was filed. A motion filed on behalf of Dominguez states, “Defendant's theory is that this 'doppelganger' Roberto Carlos Dominguez was born in the same town where Plaintiff grew up; was born in the same month and year as Plaintiff, early November 1979; at the time of his birth, had a mother living at 70 Cross Street, the same address where Plaintiff and his parents lived throughout his early years; and that, through some incredible coincidence, Plaintiff was able to obtain this individual's birth certificate.”⁴

⁴ Memorandum of Law in Support of Summary Judgment, C. A. No. 1:14-cv-13970-WGY, December 18, 2015, p. 16.

53. On or about 2012, after I obtained records about Mr. Dominguez's *nine year* deportation to the Dominican Republic from the United States, his place of birth, I sought representation on behalf of Mr. Dominguez from the Cardozo Law School Immigrant Justice Clinic ("Clinic") and followed his litigation. The Clinic filed the motion for relief quoted in ¶53. Delays of years allow life's exigencies – from re-arrest to death – to moot a case whose existence threatens the legality of the entire deportation apparatus, one premised on the meagre legal protections available to noncitizens, thus insuring the wrongful detention and deportation of U.S. citizens.

54. An email of November 2, 2020 over the signature line of "Deputy Chief Counsel" flags a campaign on behalf of Charpentier and shares a link to a newspaper article, stating, "...I will reach out to REDACTED to see if I can contact the website listed at the bottom to have your names removed." BATES 1709.

55. As of June 8, 2023 the link elicits a Fox 40 web page stating, "You have reached a page which is currently unavailable." <https://www.wicz.com/our-apologies>. The same result occurs with a search of "charpentier" and other words in the link on the site's search engine. (The link in the email is "<http://www.wicz.com/story/42643232/us-citizen-pascal-shakoure-charpentier-unlawfully-detained-in-ins-jail-74-days>"; I tried this and also <http://www.wicz.com/story/42643232/us-citizen-pascal-shakoure-charpentier-unlawfully-detained-in-ins-jail-74-days.html>.) BATES 1709.

56. Deportation hearings are generally open to the public (8 CFR 1003.27) and ICE trial attorney names are a matter of public record. Digital recordings released to me pursuant to this litigation regularly state in public hearings the full names of the ICE trial attorneys pursuing Charpentier's deportation.

57. An ICE deportation officer who appears to be coordinating a 2021 effort to re-arrest Charpentier sent an email message about media coverage. This is included in the Fifth Release of files labeled “OPLA.” The “to” and “from” email addresses are redacted in their entirety. The unredacted message in its entirety says, “Here ya go” above a signature line with the title “Deportation Office, Fugitive Operations Unit/B.E.S.T,” below which is a link to a newspaper article above a second signature line with the title “Deportation Office, Bergen County.” Email, April 28, 2021. Bates 1861.

58. An email from “REDACTED(USANYS)” to “REDACTED@goldbergimmigration.com” dated November 20, 2020 pertaining to the FOIA litigation states, “ICE ~ As previously explained ICE has no record of receiving the FOIA requests in the Complaint in this case until this past Monday Nov[.] 16, when you sent the requests with their tracking information.” Bates 1940. This representation is nonsensical. On information and belief, Goldberg could only have the ICE tracking number noted by the AUSA pursuant to its creation by ICE, evidence that ICE did indeed possess a record of receiving the request.⁵ The email from the AUSA goes on to inform Goldberg that ICE is “willing to search for all records pertinent to the three parties if you would agree to dismiss the case with no attorney’s fees upon receipt of the documents.” Bates 1940.

59. Email from the AUSA indicates that the documents subject to the litigation were released on November 3, 2020 via a USCIS digital platform FIRST, even though the email from USCIS to the ICE trial attorney indicated that the release was being prepared for “mailing” (see above ¶47).

⁵ At a hearing on October 29, 2020, Goldberg tells the immigration judge, “The day he walked into my office on July 23 I filed these FOIAs. I knew what this case would be about. I filed these FOIAs.” Digital audio recording, EOIR FOIA 2022-52897.

60. USCIS contracts with a private firm for FOIA information technology and other services, and regularly botches its FOIA releases and communications. On information and belief, the firm with which USCIS contracts for FIRST is General Dynamics Information Technology, a major supplier to the U.S. government of military and surveillance systems.

61. ICE trial attorney Genevieve Kim (“Kim”) at an immigration hearing on November 12, 2020 told the immigration judge, “[Goldberg] has the records related to everything that’s in the respondent, the father, and the mother’s A-file as requested in the FOIA request.” Goldberg states otherwise: “We have an email from the government that attached the Mom’s FOIA and Dad’s FOIA and said USCIS and ICE were reviewing the Respondent’s FOIA and what I got was a bunch of blank pages because they weren’t allowed to release it except for that single page which I believe has several issues and I would also like to address. The USCIS file for the respondent has not been received.”⁶

Sixth Interim Release, May 2023

62. The “Sixth Interim Release” cover letter indicates “0 pages” will be released to me for the month of May, 2023. “Ex. 6.”

63. ICE in the letter dated May 12, 2023 reiterates my original requests of ICE associated with this litigation and states, “A search of the Office of Acquisitions [“OA”] located records that were potentially responsive to your request. For this production ICE and the Department of Justice reviewed 1575 pages of potentially responsive documents. Of those 1575 pages ICE has determined that 1575 are considered non-responsive.” Ex. 6, p. 2.

64. No information is provided as to how “potentially responsive documents” were identified; how many records, not pages, were identified for the May, 2023 search; or any other

⁶ Digital audio recording, EOIR FOIA 2022-52897.

information specific enough for the opposition party or court to establish why ICE was tasking for these requests the *Office of Acquisitions [Management]*, a component that has no discernible connection to the subject matter of any requests of ICE in this litigation and is arguably the ICE component least likely to have any potentially responsive records.⁷

65. The discrepancy between ICE officials' ineffective response to a court order to search for records in this case, on the one hand, and its discretionary and robust use of administrative subpoenas without legal authority, on the other, suggests the problem is not capacity or a lack of agency diligence.⁸ When ICE wants to obtain information ICE (over)zealously seeks it out. When ICE does not want to obtain information, it operates as it has in this litigation and that of Goldberg.

66. On information and belief, ICE's recent and effectively bogus search for "potentially responsive records" in the Office of Acquisitions and not, say, "Enforcement and Removal Operations" or "Detention Facilities" is because ICE in this and other litigation is retaliating against me because of my effectiveness in exposing the agency's reprehensible and unlawful misconduct against U.S. citizens and other residents of the United States.

7 There is no ICE "Office of Acquisitions" per se. <https://www.ice.gov/leadership/organizational-structure>. I know from my research that that individual-level commissary account records are maintained by the respective detention facilities and not the ICE component overseeing hundred million dollar contracts with large prison firms. The ICE OA home page states: "The ICE Office of Acquisition Management (OAQ) is a highly professional, customer-focused organization with an enterprise-wide, strategic approach to procurement. OAQ operates as a full business partner with internal and external organizations and serves as a strategic asset dedicated to improving the agency's overall business performance." <https://www.ice.gov/about-ice/management-administration/oaq>. One does not need to be a trained ICE FOIA specialist to infer this component is unlikely to have any records that are potentially responsive to my requests for individual records of individuals targeted for deportation.

8 Samah Assad and Megan Hickey, "ICE is demanding data from Illinois abortion clinics, restaurants, schools and more using obscure legal tool," May 18, 2023, CBS News Chicago, <https://www.cbsnews.com/chicago/news/ice-data-abortion-clinics-restaurants-schools/>.

67. ICE's omnibus FOIA case number created *sua sponte* and in disregard of the true case numbers ICE originally assigned is inaccurate and obstructs evaluation of compliance with court orders during the pendency of proceedings. See above ¶¶ 18-19.

Executive Office of Immigration Review ("EOIR")

2021-41956 – Miguel Silvestre

68. On October 24, 2022, EOIR released to me a partial response to my request. Among records responsive to my request and not released were the audio recordings of the hearings and calendar system notes entered by the immigration judges presiding over the hearings.

69. An unsigned email from an EOIR email address associated with the October 24, 2022 release states: "ROP (03/08/04 (CSR) - 24 pages): [LINK] - No Audio
ROP (02/01/99 (RMV) - 24 pages): - Audio on cassette tape but damaged." A damaged audio cassette is responsive to my request.

70. Immigration hearing regulations obligate hearings to be recorded: "The hearing shall be recorded verbatim except for statements made off the record with the permission of the immigration judge." 8 CFR 1240.9. <https://www.ecfr.gov/current/title-8/chapter-V/subchapter-B/part-1240/subpart-A#1240.9>.

71. I received the partial production 25 working days after I commenced this litigation. This is **228 working days after EOIR's estimated date of completion** and **333 days after my request**. Complaint ¶¶75, 78. Prior to litigation I received no records responsive to my request.

022-27937 — Toan Hoang

72. On October 28, 2022, EOIR released to me via an unsigned email a partial response to my request. This consisted of documents from the record of proceeding (38 pages) and one recording. On information and belief, among records responsive to my request and not released

were hearing recordings for 1999, per notices in the record of proceedings. as well as records associated with a change of venue for the immigration hearings.

73. I received the partial production 162 working days after my request and 30 working days after I commenced litigation. Prior to litigation I received no records responsive to my request.

2021-52588 — Christopher Archie

74. On October 27, 2022, EOIR released to me via an unsigned email a partial response to my request. This consisted of documents from the record of proceedings and two recordings of hearings.

75. At least one hearing additional to the two recordings released to me is indicated in the record of proceedings.⁹

76. EOIR did not indicate any reason for withholding the recording of the hearing of July 2, 1991 or recordings of other hearings.

77. I received the partial production **228 working days after my request, 186 days after EOIR's estimated date of completion (Answer ¶90), and 28 days after I commenced litigation.**

2020-60017 — Joel Rubin

78. I have received no “final letter” and no records responsive to this request and no “final letter” dated July 23, 2020.

2022-52897 — Pascal Charpentier

79. On October 19, 2022 I received a partial response to my expedited request.

⁹ Evidence of the missing audio recording appears in the order of Immigration Judge Keith C. Williams dated July 2, 1991 as well as a digital of audio recording that references a hearing on July 2, 1991, at 2:04. The recording is one of two produced to me and appears to be for February 4, 1992, as it includes an oral decision that is printed and appears at page one of the PDF EOIR produced.

80. The record of proceeding EOIR produced indicates EOIR officials assigned six immigration judges to the single proceeding for Pascal Charpentier. Among records responsive to my request EOIR has not produced are records of communications about the assigning of immigration judges to Charpentier's case or calendar entries and notes on the proceeding.¹⁰

81. I received the partial production 42 working days after I submitted my request and 22 working days after my Complaint was filed. Prior to litigation I received no records responsive to my request.

The above is true and correct to the best of my knowledge and recollections.

Dated: June 8, 2023



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(847) 467-2093
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¹⁰ "...This request includes but is not limited to all memoranda, notes, reports, email messages, and all other system records or communications associated with or pertaining to Mr. Charpentier generated or received by EOIR. Please include ALL calendar and case note records maintained by any EOIR digital systems." Complaint, ¶97, quoting from my original request.





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Thank you for visiting FOIA.gov, the government's central website for FOIA. We'll continue to make improvements to the site and look forward to your input. Please submit feedback to National.FOIAPortal@usdoj.gov.

Submission ID: 342101

Success!

Your FOIA request has been created and is being sent to the U.S. Customs & Border Protection.

You'll hear back from the agency confirming receipt in the coming weeks using the contact information you provided. If you have questions about your request, feel free to reach out to the agency FOIA personnel using the information provided below.

Contact the agency

Sabrina Burroughs, FOIA Officer

202-325-0150

FOIA Requester Service Center

202-325-0150

Sabrina Burroughs, FOIA Officer

202-325-0150

U.S. Customs & Border Protection, Sabrina Burroughs, FOIA
Officer
90 K Street, NW, 9th Floor, Mail Stop 1181
Washington, DC 20229-1181

Request summary

Request submitted on **March 10, 2022**.

The confirmation ID for your request is **342101**.

▶ The confirmation ID is only for identifying your request on FOIA.gov and acts as a receipt to show that you submitted a request using FOIA.gov. This number does not replace the information you'll receive from the agency to track your request. In case there is an issue submitting your request to the agency you selected, you can use this number to help.

Contact information

Name

Jacqueline Stevens

Mailing address

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Political Science

Evanston, IL 60208

United States

Phone number

847-467-2093

Company/organization

Deportation Research Clinic

Email

jacqueline-stevens@northwestern.edu

Your request

This letter constitutes a request under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, for all system records and other items maintained, produced, or distributed by CBP pertaining to Toan Hoang. His “alien number” is 025-105-060. He was born in Vietnam on March 29, 1977. Information responsive to this request includes but is not limited to: (1) all memoranda, notes, reports, email messages, and all other system records or communications associated with or pertaining to Mr. Hoang generated or received by CBP and; (2) screen shots of all databases likely to have responsive records. The time frame of this request is March 29, 1977 to the present. Mr. Hoang has signed a waiver, including a certificate of identity, allowing me to receive these records. Please find a copy of this waiver attached.

Additional information

Hoang_Waiver.pdf

Fees

What type of requester are you?

educational

Fee waiver

yes

Fee waiver justification

As a scholar, blogger, and a writer on immigration law enforcement, I am entitled to a waiver of duplication fees

because disclosure of this information is in the public interest within the meaning of 5 U.S.C. § 552(a)(4)(A)(iii). The disclosure of this 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.” I am requesting a fee waiver as I am using this information for my teaching, research, and journalism and am not seeking these records for financial gain. I am a Professor at Northwestern University and engage in research on the unlawful detention and deportation of United States citizens, such as Mr. Hoang. My work has been published in The New York Times and The New Yorker, among other publications. You can find my original work here: <https://www.nytimes.com/2018/04/04/opinion/migrants-detention-forced-labor.html> and <http://stateswithoutnations.blogspot.com/> and you can find my research cited in these publications: <https://reason.com/2017/11/12/how-immigration-crackdowns-scr/> and <https://www.wnyc.org/story/history-and-practice-immigration-detention/>.

The amount of money you’re willing to pay in fees, if any

25.00

Request expedited processing

Expedited processing

no



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CONTACT

Office of Information Policy (OIP)
U.S. Department of Justice
441 G St, NW, 6th Floor
Washington, DC 20530
E-mail: National.FOIAPortal@usdoj.gov

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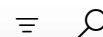
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JS

Print Close

records for Toan Hoang

Jacqueline Stevens <jacqueline-stevens@northwestern.edu>

Thu 3/10/2022 12:55 PM

To: cbpfoia@cbp.dhs.gov <cbpfoia@cbp.dhs.gov>

1 attachments (736 KB)

Hoang_Waiver.pdf;

To Whom It May Concern,

This letter constitutes a request under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, for all system records and other items maintained, produced, or distributed by CBP pertaining to Toan Hoang. His "alien number" is 025-105-060. I submitted this request as well through the CBP FOIA interface but received no confirmation; this is part of a pattern and practice of CBP disregarding its FOIA statutory obligations.

Mr. Hoang was born in Vietnam on March 29, 1977.

Information responsive to this request includes but is not limited to:

(1) all memoranda, notes, reports, email messages, and all other system records or communications associated with or pertaining to Mr. Hoang generated or received by CBP and;

(2) screen shots of all databases likely to have responsive records.

The time frame of this request is March 29, 1977 to the present.

Mr. Hoang has signed a waiver, including a certificate of identity, allowing me to receive these records. Please find a copy of this waiver attached.

As a scholar, blogger, and a writer on immigration law enforcement, I am entitled to a waiver of duplication fees because disclosure of this information is in the public interest within the meaning of 5 U.S.C. § 552(a)(4)(A)(iii). The disclosure of this 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." I am requesting a fee waiver as I am using this information for my teaching, research, and journalism and am not seeking these records for financial gain. I am a Professor at Northwestern University and engage in research on the unlawful detention and deportation of United States citizens, such as Mr. Hoang. My work has been published in The New York Times and The New Yorker, among other publications. You can find my original work here:

<https://www.nytimes.com/2018/04/04/opinion/migrants-detention-forced-labor.html> and <http://stateswithoutnations.blogspot.com/> and you can find my

research cited in these publications: <https://reason.com/2017/11/12/how-immigration-crackdowns-scr/> and <https://www.wnyc.org/story/history-and-practice-immigration-detention/>.

PLAINTIFF'S
EXHIBIT
3

Office of Information Governance and Privacy

U.S. Department of Homeland Security
500 12th St., SW
Washington, D.C. 20536



**U.S. Immigration
and Customs
Enforcement**

December 14, 2022

Nicolette Glazer Esq.
Law Office of Larry R Glazer
1999 Avenue of the Stars # 1100
Century City, CA 90067

**RE: Stevens v. ICE 1:20-cv-05072
ICE FOIA Case Number 2022-ICLI-00003
First Interim Release**

Dear Ms. Glazer:

This letter is the first interim response to your client's Freedom of Information Act (FOIA) requests to U.S. Immigration and Customs Enforcement (ICE). You seek records relating to the following Freedom of Information Act requests: 2022-ICFO-08985, 2020-ICFO-09447, and 2022-ICFO-27065. ICE has considered your request under the FOIA, 5 U.S.C. § 552.

FOIA request 2022-ICFO-08985 seeks:

- 1) All records of all grievances filed by Mr. Hoang, orally or in writing and under the control of ICE or its components, including county jails or private prisons with which ICE has contracted.
- 2) Commissary account data, including but not limited to information tracking funds reimbursed to Mr. Hoang on release from custody.
- 3) Work program participation documents and payment records.
- 4) All correspondence, notes, and other records pertaining to assertions or findings of U.S. citizenship from all databases, including records tied to proceedings in Los Angeles in 1999.
- 5) Communications with police, jails, prisons about Mr. Hoang's arrest and detention.
- 6) Screen shots of all tabs for interfaces associated with databases likely to have records responsive to this request.
- 7) All email, faxes, notes, and all other analyses and records tied to ICE investigations or findings for any deportation orders or arrests of Mr. Hoang.

FOIA request 2022-ICFO-09447 seeks:

1. records of all grievances filed, orally or in writing and under the control of ICE or its components, including county jails or private prisons with which ICE has contracted
2. Commissary account data, including but not limited to information tracking funds reimbursed on release from custody

Page 2 of 4

3. Work program participation documents and payment records
4. All correspondence, notes, and other records pertaining to assertions or findings of U.S. citizenship from all databases
5. Communications with police, jails, prisons, arrests and detention
6. Screen shots of all tabs for interfaces associated with databases likely to have records responsive to this request
7. All email, faxes, notes, and all other analyses and records tied to ICE investigations or findings for any deportation orders or arrests of Miguel Silvestre, A#077-166-008, date of birth 02/16/1978

FOIA request 2022-ICFO-27065 seeks:

1. All system records and other items maintained, produced, or distributed by ICE, including ICE trial attorneys and HQ, pertaining to Pascal Charpentier. His date of birth is January 21, 1972. His country of birth is Germany. His "alien" number was 029001711 and in 2016 he was given this number: 020578103. I am interested in all system records pertaining to Mr. Charpentier and all ICE correspondence with other government agencies, individuals, or attorneys pertaining to Mr. Charpentier as well
2. All records of all grievances filed by Mr. Charpentier orally or in writing and under the control of ICE or its components, including county jails or private prisons with which ICE has contracted
3. Commissary account data, including but not limited to information tracking funds reimbursed to Mr. Charpentier on release from custody
4. All correspondence, notes, and other records pertaining to assertions or findings of U.S. citizenship, including but not limited to entries into PLAnet
5. All ICE Fugitive Operation notes, memorandums, text messages, and other information in any medium related to the search and arrest of Mr. Charpentier. This includes but is not limited to database search protocols on which agents relied for information leading to the arrest
6. I am seeking all instructions in any form on which ICE employees relied in their search for the information that led to the arrest of Mr. Charpentier.
7. Screen shots of all tabs for interfaces to databases searched for information responsive to this request

ICE has considered your requests under the FOIA, 5 U.S.C. § 552.

A search of the Office of Acquisitions located records that were potentially responsive to your request. For this production ICE reviewed 501 pages of potentially responsive documents. Of those 501 pages ICE has determined that 32 are considered non-responsive; 7 are withheld in full, 96 are duplicates, 60 pages will be released in full and the remaining 306 pages will be withheld in part pursuant to FOIA Exemptions 5, 6, and 7(C) and 7(E) as described below. A total of 373 pages have been Bates numbered 2022-ICLI-00003 0001 through 2022-ICLI-00003 0373.

FOIA Exemption 5 protects inter-agency or intra-agency memorandums or letters which not be available by law to a party other than an agency in litigation with the agency. The deliberative process privilege protects the integrity of the deliberative or decision-making processes within

the agency by exempting from mandatory disclosure opinions, conclusions, and recommendations included within inter-agency or intra-agency memoranda or letters. The release of this internal information would discourage the expression of candid opinions and inhibit the free and frank exchange of information among agency personnel. The attorney work-product privilege protects documents and other memoranda prepared by an attorney in contemplation of litigation. The attorney-client privilege protects confidential communications between an attorney and his client relating to a legal matter for which the client has sought professional advice. It applies to facts divulged by a client to his attorney, and encompasses any opinions given by an attorney to his client based upon, and thus reflecting, those facts, as well as communications between attorneys that reflect client-supplied information. The attorney-client privilege is not limited to the context of litigation.

ICE has applied FOIA Exemptions 6 and 7(C) to protect from disclosure the personally identifiable information of DHS employees and third parties contained within the records.

FOIA Exemption 6 exempts from disclosure personnel or medical files and similar files the release of which would cause a clearly unwarranted invasion of personal privacy. This requires a balancing of the public's right to disclosure against the individual's right to privacy. The privacy interests of the individuals in the records you have requested outweigh any minimal public interest in disclosure of the information. Any private interest you may have in that information does not factor into the aforementioned balancing test.

FOIA Exemption 7(C) protects records or information compiled for law enforcement purposes that could reasonably be expected to constitute an unwarranted invasion of personal privacy. This exemption takes note of the strong interests of individuals, whether they are suspects, witnesses, or investigators, in not being unwarrantably associated with alleged criminal activity. That interest extends to persons who are not only the subjects of the investigation, but those who may have their privacy invaded by having their identities and information about them revealed in connection with an investigation. Based upon the traditional recognition of strong privacy interest in law enforcement records, categorical withholding of information that identifies third parties in law enforcement records is ordinarily appropriate. As such, I have determined that the privacy interest in the identities of individuals in the records you have requested clearly outweigh any minimal public interest in disclosure of the information. Please note that any private interest you may have in that information does not factor into this determination.

FOIA Exemption 7(E) protects records compiled for law enforcement purposes, the release of which would disclose techniques and/or procedures for law enforcement investigations or prosecutions or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law. I have determined that disclosure of certain law enforcement sensitive information contained within the responsive records could reasonably be expected to risk circumvention of the law. Additionally, the techniques and procedures at issue are not well known to the public.

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If you have any questions about this letter, please contact Assistant United States Attorney at Alex Hartzler at Alex.Hartzler@usdoj.gov.

Sincerely,

Marcus K. Francis, Sr.
Supervisory Paralegal Specialist

Enclosure: 373 pages



Office of Information Governance and Privacy

U.S. Department of Homeland Security
500 12th St., SW
Washington, D.C. 20536



**U.S. Immigration
and Customs
Enforcement**

April 27, 2023

Nicolette Glazer Esq.
Law Office of Larry R Glazer
1999 Avenue of the Stars # 1100
Century City, CA 90067

**RE: Stevens v. ICE 1:22-cv-05072
ICE FOIA Case Number 2023-ICLI-00003
Fifth Interim Release**

Dear Ms. Glazer:

This letter is the Fifth interim response to your client's Freedom of Information Act (FOIA) requests to U.S. Immigration and Customs Enforcement (ICE). You seek records relating to the following Freedom of Information Act requests: 2022-ICFO-08985, 2020-ICFO-09447, and 2022-ICFO-27065. ICE has considered your request under the FOIA, 5 U.S.C. § 552.

FOIA request 2022-ICFO-08985 seeks:

- 1) All records of all grievances filed by Mr. Hoang, orally or in writing and under the control of ICE or its components, including county jails or private prisons with which ICE has contracted.
- 2) Commissary account data, including but not limited to information tracking funds reimbursed to Mr. Hoang on release from custody.
- 3) Work program participation documents and payment records.
- 4) All correspondence, notes, and other records pertaining to assertions or findings of U.S. citizenship from all databases, including records tied to proceedings in Los Angeles in 1999.
- 5) Communications with police, jails, prisons about Mr. Hoang's arrest and detention.
- 6) Screen shots of all tabs for interfaces associated with databases likely to have records responsive to this request.
- 7) All email, faxes, notes, and all other analyses and records tied to ICE investigations or findings for any deportation orders or arrests of Mr. Hoang.

FOIA request 2022-ICFO-09447 seeks:

1. records of all grievances filed, orally or in writing and under the control of ICE or its components, including county jails or private prisons with which ICE has contracted
2. Commissary account data, including but not limited to information tracking funds reimbursed on release from custody

Page 2 of 4

3. Work program participation documents and payment records
4. All correspondence, notes, and other records pertaining to assertions or findings of U.S. citizenship from all databases
5. Communications with police, jails, prisons, arrests and detention
6. Screen shots of all tabs for interfaces associated with databases likely to have records responsive to this request
7. All email, faxes, notes, and all other analyses and records tied to ICE investigations or findings for any deportation orders or arrests of Miguel Silvestre, A#077-166-008, date of birth 02/16/1978

FOIA request 2022-ICFO-27065 seeks:

1. All system records and other items maintained, produced, or distributed by ICE, including ICE trial attorneys and HQ, pertaining to Pascal Charpentier. His date of birth is January 21, 1972. His country of birth is Germany. His "alien" number was 029001711 and in 2016 he was given this number: 020578103. I am interested in all system records pertaining to Mr. Charpentier and all ICE correspondence with other government agencies, individuals, or attorneys pertaining to Mr. Charpentier as well
2. All records of all grievances filed by Mr. Charpentier orally or in writing and under the control of ICE or its components, including county jails or private prisons with which ICE has contracted
3. Commissary account data, including but not limited to information tracking funds reimbursed to Mr. Charpentier on release from custody
4. All correspondence, notes, and other records pertaining to assertions or findings of U.S. citizenship, including but not limited to entries into PLAnet
5. All ICE Fugitive Operation notes, memorandums, text messages, and other information in any medium related to the search and arrest of Mr. Charpentier. This includes but is not limited to database search protocols on which agents relied for information leading to the arrest
6. I am seeking all instructions in any form on which ICE employees relied in their search for the information that led to the arrest of Mr. Charpentier.
7. Screen shots of all tabs for interfaces to databases searched for information responsive to this request

ICE has considered your requests under the FOIA, 5 U.S.C. § 552.

A search of the Office of Acquisitions located records that were potentially responsive to your request. For this production ICE and the Department of Justice reviewed 1575 pages of potentially responsive documents. Of those 1575 pages ICE has determined that 120 are considered non-responsive; 795 pages were duplicates, 144 pages will be released in full, 22 pages will be withheld in full and the remaining 494 pages will be withheld in part pursuant to FOIA Exemptions 5, 6, and 7(C) and 7(E) as described below. A total of 660 pages have been Bates numbered 2023-ICLI-00003 1516 through 2023-ICLI-00003 2175.

FOIA Exemption 5 protects inter-agency or intra-agency memorandums or letters which not be available by law to a party other than an agency in litigation with the agency. The deliberative process privilege protects the integrity of the deliberative or decision-making processes within

the agency by exempting from mandatory disclosure opinions, conclusions, and recommendations included within inter-agency or intra-agency memoranda or letters. The release of this internal information would discourage the expression of candid opinions and inhibit the free and frank exchange of information among agency personnel. The attorney work-product privilege protects documents and other memoranda prepared by an attorney in contemplation of litigation. The attorney-client privilege protects confidential communications between an attorney and his client relating to a legal matter for which the client has sought professional advice. It applies to facts divulged by a client to his attorney, and encompasses any opinions given by an attorney to his client based upon, and thus reflecting, those facts, as well as communications between attorneys that reflect client-supplied information. The attorney-client privilege is not limited to the context of litigation.

ICE has applied FOIA Exemptions 6 and 7(C) to protect from disclosure the personally identifiable information of DHS employees and third parties contained within the records.

FOIA Exemption 6 exempts from disclosure personnel or medical files and similar files the release of which would cause a clearly unwarranted invasion of personal privacy. This requires a balancing of the public's right to disclosure against the individual's right to privacy. The privacy interests of the individuals in the records you have requested outweigh any minimal public interest in disclosure of the information. Any private interest you may have in that information does not factor into the aforementioned balancing test.

FOIA Exemption 7(C) protects records or information compiled for law enforcement purposes that could reasonably be expected to constitute an unwarranted invasion of personal privacy. This exemption takes note of the strong interests of individuals, whether they are suspects, witnesses, or investigators, in not being unwarrantably associated with alleged criminal activity. That interest extends to persons who are not only the subjects of the investigation, but those who may have their privacy invaded by having their identities and information about them revealed in connection with an investigation. Based upon the traditional recognition of strong privacy interest in law enforcement records, categorical withholding of information that identifies third parties in law enforcement records is ordinarily appropriate. As such, I have determined that the privacy interest in the identities of individuals in the records you have requested clearly outweigh any minimal public interest in disclosure of the information. Please note that any private interest you may have in that information does not factor into this determination.

FOIA Exemption 7(E) protects records compiled for law enforcement purposes, the release of which would disclose techniques and/or procedures for law enforcement investigations or prosecutions or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law. I have determined that disclosure of certain law enforcement sensitive information contained within the responsive records could reasonably be expected to risk circumvention of the law. Additionally, the techniques and procedures at issue are not well known to the public.

Page 4 of 4

If you have any questions about this letter, please contact Assistant United States Attorney at Alex Hartzler at Alex.Hartzler@usdoj.gov.

Sincerely,

Meronica D. Stoney
(A) Deputy FOIA Officer

Enclosure: 660 pages



From: (b)(6); (b)(7)(C) (USANYS)
To: (b)(6); (b)(7)(C)
Subject: RE: Pascal Charpentier immigration proceedings
Date: Thursday, November 12, 2020 10:36:15 AM

CAUTION: This email originated from outside of DHS. DO NOT click links or open attachments unless you recognize and/or trust the sender. Contact [ICE SOC SPAM](#) with questions or concerns.

The USCIS release letters were sent on 11/3. I forwarded you a courtesy copy of that email. I have not received confirmation that plaintiff downloaded the remaining documents from the FIRST account.

I need to follow up with her on some other things today, so I will confirm the FIRST document receipt in that email, and will let you know what she says.

Best,

(b)(6); (b)(7)(C)

From: (b)(6); (b)(7)(C) @ice.dhs.gov>
Sent: Thursday, November 12, 2020 9:58 AM
To: (b)(6); (b)(7)(C) (USANYS) (b)(6); (b)(7)(C) @usa.doj.gov>
Subject: RE: Pascal Charpentier immigration proceedings

Good morning AUSA (b)(6); (b)(7)(C)

I just had a hearing this morning for respondent's case. Can you verify what the AUSA's office has sent to respondent's attorney, Ms. (b)(6); (b)(7)(C) and email me a courtesy copy? I have to file this with the Immigration Judge and we have a hearing reset to next Thursday 11/19.

I had represented to the Immigration Judge today that upon my consultation with USCIS, they indicated that the NRC FOIA response letters and documents were forwarded to Ms. (b)(6); (b)(7)(C) last week for both parents and the respondent. Ms. (b)(6); (b)(7)(C) is stating otherwise.

Thank you,

(b)(6); (b)(7)(C)

From: (b)(6); (b)(7)(C)
Sent: Tuesday, November 3, 2020 4:50 PM
To: (b)(6); (b)(7)(C) @usdoj.gov
Subject: Pascal Charpentier immigration proceedings

Hi AUSA (b)(6)

Pleasure to talk with you. As discussed, please see the attached DHS brief in opposition to the respondent's motion to terminate. Also, I have attached the IJ's decision denying his motion to terminate and also finding that he is subject to mandatory detention.

DHS brief is encrypted, I will send password in a separate email.

Thanks,

(b)(6), (b)(7)(C)

Assistant Chief Counsel
OPLA New York City
26 Federal Plaza, (b)(6); (b)(7)(C)
New York, NY 10278
Immigration & Customs Enforcement
Dept of Homeland Security

Currently teleworking

Email: (b)(6); (b)(7)(C)@ice.dhs.gov

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