

March 15, 2025

U.S. Customs and Border Protection
Freedom of Information Act Office
1300 Pennsylvania Avenue NW, Mail Stop 1181
Washington, DC 20229

Sent via securerelease.us

**RE: Request Under Freedom of Information Act
(Expedited Processing & Fee Waiver / Limitation Requested)**

Dear Freedom of Information Officer:

Professor Elora Mukherjee and the Deportation Data Project, through counsel, submit this Request under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552. This Request seeks database records pertaining to U.S. Customs and Border Protection (“CBP”) encounters and apprehensions, and people deemed inadmissible at ports of entry. The result should be a spreadsheet or multiple spreadsheets in which rows correspond to persons and columns correspond to data.

Requesters also seek expedited processing, pursuant to 5 U.S.C. § 552(a)(6)(E) and 6 C.F.R. § 5.5(e), and a fee waiver, pursuant to 5 U.S.C. § 552(a)(4)(A) and 6 C.F.R. § 5.11(k). The justifications for expedited processing and the fee waiver are set out in detail following the Request.

I. Records Requested

Requesters seek simple updates to records that CBP has produced and posted in its reading room already.¹ The requested data should include all records from the last end date of data posted in the reading room until the last day of the month preceding the day of production.

In every table produced, the agency should produce anonymous unique identifiers corresponding to each subject ID and Alien File Number, and, separately, to the ID fields for each officer and supervisor involved. The dataset fields (i.e. columns in spreadsheet format) include the following:

A. Encounters Data Fields (Border Patrol)

1. Encounter Datetime
2. Border
3. Apprehension Sector
4. Apprehension State
5. Apprehension Latitude

¹ See CBP FOIA Reading Room, <https://www.cbp.gov/document/foia-record/customs-and-border-protection-border-patrol-statistics>.

6. Final Bookout Datetime
7. Transferred to Group
8. Sector of Booked Out
9. Disposition
10. MPP Indicator (Y/N)
11. SPP Program(s)
12. Citizenship
13. Number of Previous Encounters
14. Most Recent Encounter Date
15. Earliest Encounter Date
16. CES (Y/N)
17. Demographic
18. Gang Affiliation
19. Drugs Seized During Apprehension (Y/N)
20. Type of Drugs Seized During Apprehension
21. Marital Status
22. Age
23. Adult or Juvenile
24. Country of Residence
25. Smuggled Cost
26. Referred for Prosecution Under 8 USC 1325 or 8 USC 1326
27. Statute Charge(s)
28. Gender
29. Time in US
30. Number of Children and Nationality
31. Arrest at Checkpoint (Y/N)
32. City of Residence
33. Currency Seized During Apprehension

B. Inadmissibles Data Fields (Office of Field Operations)

1. Calendar Year
2. Calendar Month
3. Event Created Datetime
4. Event Reason
5. Custody Date/Time Out (Latest)
6. Disposition
7. Mode of Transport
8. North - South Indicator
9. Citizenship Country Name
10. FMUA/UAC/AM/SINGLE (Derived)
11. Cred Fear Indicator (Derived)
12. Age at Event Creation Time
13. Birth Country Name
14. Presented To AUSA
15. Charge

16. Duplicate Subject Indicator
17. Entry Status
18. Gender
19. Country Name
20. Disposition Name
21. I216 Custody Transfer To (Agency)
22. Custody Date/Time Out (Latest)
23. Suspected Gang Affiliation Name
24. Gang Affiliation Comments
25. Field Office Name
26. USA State Code
27. Marital Status Name
28. Destination Address in U.S.

II. Requirement to Include Anonymized Unique Identifiers

In the event CBP redacts information that is necessary for the Requesters and the public to access the data in the same manner as CBP, CBP is required to substitute the exempt material with a unique ID. Pursuant to the Second Circuit's decision for *ACLU Immigrants' Rights Project v. United States Immigration & Customs Enforcement*, 58 F.4th 643 (2d Cir. 2023), agencies such as CBP are required to replace exempt identifying numbers with anonymized unique identifiers. The Court has determined that unique IDs, because they are "meaningless in themselves," neither alter the content of exempt records nor constitute the creation of a new record.² Moreover, for the purposes of FOIA, requiring an agency to use a query to extract a particular requested arrangement or subset of data does not amount to the creation of a new record if the data is already maintained in the agency's database.³

III. Application for Expedited Processing

Requesters seek expedited processing pursuant to 5 U.S.C. § 552(a)(6)(E) and 6 C.F.R. § 5.5(e)(1). There is a "compelling need" for these records because the information requested is "urgen[tly]" needed by an organization primarily engaged in disseminating information "to inform the public concerning actual or alleged Federal Government activity." *See* 5 U.S.C. § 552(a)(6)(E)(v)(II).

A. The records sought are urgently needed to inform the public about actual or alleged government activity.

These records are urgently needed to inform the public about actual or alleged government activity. *See* 5 U.S.C. § 552(a)(6)(E)(v)(II); 6 C.F.R. § 5.5(e)(1)(ii). There is a compelling and urgent need to inform the public about encounters and apprehensions at the border.

² *Am. C.L. Union Immigrants' Rts. Project v. United States Immigr. & Customs Enf't*, 58 F.4th 643, 656 (2d Cir. 2023).

³ *Id.* at 659.

The government has released some aggregate statistics about the recent trends in border encounters,⁴ but there is no regular public release of CBP individual-level enforcement data to the public despite the critical public need to understand the current trends at the border.

CBP has also previously released anonymized, individual-level spreadsheet data on immigration enforcement.⁵ These records have played an important role in informing the public about CBP's activities. Releasing updated data with unique identifiers for each individual would address an urgent need for journalists and researchers to understand the frequently changing immigration landscape. Because enforcement patterns at the border change swiftly over time,⁶ obtaining up-to-date data is critical in informing the public.

B. Requesters are primarily engaged in disseminating information in order to inform the public about actual or alleged government activity.

Requesters are “primarily engaged in disseminating information” within the meaning of the FOIA. *See* 5 U.S.C. § 552(a)(6)(E)(v)(II); *see also* 6 C.F.R. § 5.5(e)(1)(ii).

Professor Mukherjee is the Jerome L. Greene Clinical Professor of Law and Director of the Immigrants' Rights Clinic at Columbia Law School and a globally recognized advocate, practitioner, and voice for immigrants, asylum seekers, and unaccompanied migrant children.⁷ Professor Mukherjee primarily engages students, faculty, journalists, community organizations, practitioners, lawmakers, experts in the field, and the broader public on the federal government's immigration policies and practices. She regularly publishes scholarship and articles on immigration,⁸ and she has been frequently cited by journalists reporting on immigration stories.⁹ Professor Mukherjee has also testified before Congress regarding conditions at the U.S.-Mexico

⁴ *See* U.S. Customs and Border Protection, *Southwest Land Border Encounters*, February 18, 2025, <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters>; U.S. Customs and Border Protection, *CBP Public Data Portal*, February 18, 2025, <https://www.cbp.gov/newsroom/stats/cbp-public-data-portal>.

⁵ *See* CBP FOIA reading room, <https://www.cbp.gov/document/foia-record/customs-and-border-protection-border-patrol-statistics>.

⁶ *See, e.g.*, John Gramlich, “Migrant encounters at U.S.-Mexico border have fallen sharply in 2024,” PEW RESEARCH CENTER, October 1, 2024, <https://www.pewresearch.org/short-reads/2024/10/01/migrant-encounters-at-u-s-mexico-border-have-fallen-sharply-in-2024/>; Avery Lotz, “Border crossings plunge to lowest levels in decades: New data,” AXIOS, March 4, 2025, <https://www.axios.com/2025/03/04/illegal-border-crossings-february-decline-trump>;

⁷ Elora Mukherjee, Columbia Law School, <https://www.law.columbia.edu/faculty/elora-mukherjee>.

⁸ *See e.g.*, “Congress’s Untapped Authority to Certify U Visas,” COLUMBIA LAW REVIEW FORUM, April 3, 2024, <https://www.columbialawreview.org/wp-content/uploads/2024/04/March-2023-Forum-Mukherjee-et-al.pdf>; “The End of Asylum Redux and the Role of Law School Clinics,” THE YALE LAW JOURNAL FORUM, December 4, 2023, <https://www.yalelawjournal.org/forum/the-end-of-asylum-redux-and-the-role-of-law-school-clinics>; “America is Closed,” SLATE, June 25, 2020, <https://slate.com/news-and-politics/2020/06/trump-america-closed-immigrants.html>; “The Supreme Court made the African ban possible,” SLATE, February 3, 2020, <https://slate.com/news-and-politics/2020/02/supreme-court-african-ban-possible.html>.

⁹ *See e.g.*, “NYC Plans to Close One of Its Biggest Migrant Shelters,” THE WALL STREET JOURNAL, February 24, 2025, <https://www.wsj.com/us-news/new-york-roosevelt-hotel-migrant-center-closing-3ed08951>; “Denver Public Schools sues to stop Trump administration policy allowing ICE agents in schools,” AP NEWS, February 12, 2025, <https://apnews.com/article/denver-public-schools-ice-immigration-lawsuit-d3baeee5db9525ff56b7bc8f5c81117f>. For a list of articles, visit: <https://www.law.columbia.edu/faculty/elora-mukherjee>.

border.¹⁰ Her scholarship and research are broadly circulated and widely available to the public at no cost.

The Deportation Data Project, where Professor Mukherjee serves as a Faculty Fellow, collects, analyzes, and posts public, anonymized U.S. government immigration enforcement datasets.¹¹ In addition to posting publicly available data on its website, the Deportation Data Project also uses the Freedom of Information Act to obtain datasets from federal government agencies.¹² Such data has been frequently used by journalists,¹³ researchers,¹⁴ lawyers and advocates,¹⁵ and policymakers¹⁶ in understanding immigration enforcement policies and practices. The Deportation Data Project's website and posting of government data are broadly circulated and widely available to the public at no cost. The Deportation Data Project also publishes analysis of the datasets it receives—for example, in the Data Guide posted on its website.¹⁷

Requesters intend to similarly analyze, publish, and disseminate to the public information gathered through this Request. The records requested are not sought for commercial use, and the Requesters plan to disseminate the information disclosed as a result of this Request to the public at no cost.

¹⁰ See e.g., *Elora Mukherjee describes horrific conditions at the border*, C-SPAN, July 12, 2019, <https://www.c-span.org/video/?c4807084/user-clip-elora-mukherjee-describes-horrific-conditions-border>.

¹¹ Deportation Data Project, <https://deportationdata.org/>.

¹² Data Repository, Deportation Data Project, <https://deportationdata.org/data.html>.

¹³ See e.g., Mica Rosenberg and Jeff Ernsthausen, “The New Effects of Immigration,” PROPUBLICA, Oct. 21, 2024, <https://projects.propublica.org/new-effects-of-immigration/>; Monte Reel and Sinduja Ranarajan, “Thousands of detainees have been jammed into jails Biden vowed to close,” BLOOMBERG, Oct. 25, 2024, <https://www.bloomberg.com/features/2024-asylum-seekers-detention-centers/>.

¹⁴ See e.g., David Hausman, “Sanctuary policies reduce deportations without increasing crime,” PROCEEDINGS OF THE NATIONAL ACADEMY OF SCIENCES OF THE UNITED STATES OF AMERICA, October 19, 2020, <https://www.pnas.org/doi/10.1073/pnas.2014673117>; David Hausman, “Risk Assessment as Policy in Immigration Detention Decisions,” JOURNAL OF LAW AND ECONOMICS (forthcoming 2025), https://www.david-hausman.com/files/ugd/a3c925_b5f5dcc8168644d4ab942c5264138230.pdf; Anthony J. DeMattee, *et al.*, “Burden and Standard Shifting in Immigration Bond Decisions,” July 15, 2021, https://scholarblogs.emory.edu/jeffreystaton/files/2021/07/Tipping_the_Scales.pdf; Jeffrey S. Passel and Jens Manuel Krogstad, “What we know about unauthorized immigrants living in the U.S.,” Pew Research Center, Jul. 22, 2024, <https://www.pewresearch.org/short-reads/2024/07/22/what-we-know-about-unauthorized-immigrants-living-in-the-us/>.

¹⁵ See e.g., American Immigration Council, “Beyond A Border Solution,” May 3, 2023, <https://www.americanimmigrationcouncil.org/research/beyond-border-solutions>; Colleen Putzel-Kavanaugh and Ariel G. Ruiz Soto, “Shifting Patterns and Policies Reshape Migration to U.S.-Mexico Border in Major Ways in 2023,” Migration Policy Institute, Oct. 2023, <https://www.migrationpolicy.org/news/border-numbers-fy2023>; David J. Bier, “Border Patrol: 70 Percent Drop in Successful Evasions Since Title 42 Ended,” Cato Institute, Mar. 4, 2024, <https://www.cato.org/blog/border-patrol-70-drop-successful-evasions-title-42-ended>.

¹⁶ See e.g., “Why We Need a New Way Forward,” <https://newwayforwardact.org/wp-content/uploads/2023/02/2023-NWF-backgrounder.pdf>; “Pressley, García, Casar Re-Introduce the New Way Forward Act,” Mar. 29, 2023, <https://pressley.house.gov/2023/03/29/pressley-garcia-casar-re-introduce-the-new-way-forward-act/>.

¹⁷ Deportation Data Project, *U.S. Immigration Enforcement Data: A Short Guide*, March 5, 2021, <https://deportationdata.org/guide.html>.

Given the foregoing, the Request satisfies the requirements for expedited processing. Pursuant to applicable statutes and regulations, Requesters expect a determination regarding expedited processing within 10 days. *See* 5 U.S.C. § 552(a)(6)(E)(ii)(I); 6 C.F.R. § 5.5(e)(4).

IV. Fee Waiver Request

Requesters request that any fees associated with responding to their FOIA Request be waived pursuant to 5 U.S.C. § 552(a)(4)(A)(iii) and 6 C.F.R. § 5.11(k). Pursuant to 5 U.S.C. § 552(a)(4)(A)(iii) and 6 C.F.R. § 5.11(k), fees should be waived or reduced if disclosure is (1) in the public interest because it is “likely to contribute significantly to public understanding of the operations or activities of the government” and (2) “not primarily in the commercial interest of the requester.” Disclosure in this case meets both of these tests.

A. Disclosure is in the public interest as it is likely to contribute significantly to the public’s understanding of the operations and activities of government.

First, disclosure pursuant to this Request is in the public interest. As set forth above, this Request seeks to bolster public understanding of CBP practices with respect to encounters, apprehensions, and people deemed inadmissible at ports of entry, which directly affect hundreds of thousands of noncitizens and legal, humanitarian, and advocacy groups that serve them, and which is of interest to the general public.

The public interest fee waiver provision “is to be liberally construed in favor of waivers for noncommercial requesters.” *McClellan Ecological Seepage Situation v. Carlucci*, 835 F.2d 1282, 1284 (9th Cir. 1987). The question relevant to fee waivers is whether the requested information is likely to contribute significantly to public understanding of the operations or activities of the government, good or bad. *See Judicial Watch, Inc. v. Rossotti*, 326 F.3d 1309, 1314 (D.C. Cir. 2003). Disclosure of the documents sought is in the public interest and will contribute significantly to the public’s understanding of the government’s practices related to encounters and apprehensions at the border.

B. Disclosure is not primarily in the commercial interest of the Requesters.

Second, Requesters are not filing this Request to further a commercial interest. Requesters intend to make any relevant information obtained through this FOIA Request available to the public. Requesters plan to analyze, publish, and disseminate to the public the information gathered through this Request at no cost.¹⁸ As explained above, Professor Mukherjee regularly publishes scholarship, articles, and other materials that are disseminated to the public and widely available to everyone at no cost. The Deportation Data Project also publishes, analyzes, and disseminates information, including datasets obtained through the Freedom of Information Act.

Should the request for a full fee waiver be denied, Requesters seek a limitation of processing fees pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II) (“[F]ees shall be limited to reasonable standard charges for document duplication when records are not sought for commercial use and the

¹⁸ *See* 6 C.F.R. § 5.11(k)(1)(ii); 6 C.F.R. § 5.11(k)(3).

request is made by . . . educational or noncommercial scientific institution . . . or a representative of the news media.”) and 6 C.F.R. § 5.11(d)(1) (search fees shall not be charged to “representatives of the news media”). Requesters intend to make use of the information in educational opportunities they offer to students and faculty, and they intend to disseminate the information gathered by this Request to the public, including journalists, researchers, lawyers, and policymakers, at no cost, including through the Deportation Data Project’s website.

V. Request for Records in Electronic Format

Requesters request that responsive electronic records be provided electronically in their native file format, if possible. *See* 5 U.S.C. § 552(a)(3)(B); *Scudder v. Cent. Intelligence Agency*, 25 F. Supp. 3d 19 (D.D.C. 2014) (“When an agency already creates or converts documents in a certain format . . . requiring that it provide documents in that format to others does not impose an unnecessarily harsh burden, absent specific, compelling evidence as to significant interference or burden.”) (quoting *TPS, Inc. v. Dep’t of Defense*, 330 F.3d 1191 (9th Cir. 2003)). Alternatively, Requesters request that the records be provided in an electronic spreadsheet format. If records are produced on physical media, please furnish the records to:

Law Office of Amber Qureshi, LLC
6925 Oakland Mills Rd, PMB #207,
Columbia, MD 21045

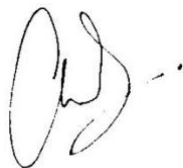
If this FOIA Request is denied in whole or in part, please provide the reasons for the denial, pursuant to 5 U.S.C. § 552(a)(6)(A)(i). In addition, please release all segregable portions of otherwise exempt material in accordance with 5 U.S.C. § 552(b).

Note that this Request seeks updated records that have not been previously disclosed to the Requesters. Please treat this request separately from any other FOIA requests.

Thank you for your consideration of this Request. If you have any questions or concerns, please do not hesitate to contact me at amber@qureshilegal.com.

I affirm that the information supporting the request for expedited processing is true and correct to the best of my knowledge and belief. *See* 5 U.S.C. § 552(a)(6)(E)(vi); 6 C.F.R. § 5.5(e)(3).

Sincerely,



Amber Qureshi
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