



**Homeland
Security**

Privacy Office, Mail Stop 0655

May 15, 2020

SENT BY E-MAIL TO: foia@americanoversight.org

Austin R. Evers
American Oversight
1030 15th Street, NW
Suite B255
Washington, DC 20005

Re: **2020-HQFO-00480**

Dear Mr. Evers:

This is the final response to your Freedom of Information Act (FOIA) request to the Department of Homeland Security (DHS), dated January 30, 2020, and received by this office on January 30, 2020. You are seeking any letters, emails, or other documents sent by the DHS Office of Civil Rights and Civil Liberties (CRCL) to the U.S. Commission on Civil Rights.

A search of Department of Homeland Security's, Office of Civil Rights and Civil Liberties (CRCL) documents responsive to your request produced a total of seven (7) pages. Of those pages, I have determined that three (3) pages of the records are releasable in their entirety and four (4) pages are partially releasable, pursuant to Title 5 U.S.C. § 552 (b)(6), FOIA Exemption 6.

Enclosed are seven (7) pages with certain information withheld as described below:

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.

You have a right to appeal the above withholding determination. Should you wish to do so, you must send your appeal and a copy of this letter, within 90 days of the date of this letter, to: Privacy Office, Attn: FOIA Appeals, U.S. Department of Homeland Security, 2707 Martin Luther King Jr. Avenue, SE, Mail Stop 0655, Washington, D.C. 20528-0655, following the procedures outlined in the DHS FOIA regulations at 6 C.F.R. Part 5 § 5.5(e)(2). Your envelope

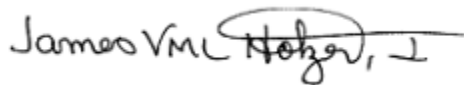
and letter should be marked "FOIA Appeal." Copies of the FOIA and DHS FOIA regulations are available at www.dhs.gov/foia.

Provisions of FOIA allow DHS to charge for processing fees, up to \$25, unless you seek a waiver of fees. In this instance, because the cost is below the \$25 minimum, there is no charge.

You may contact the DHS FOIA Public Liaison at 202-343-1743 for any further assistance and to discuss any aspect of your request. You may also contact OGIS at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

If you need to contact our office again about this matter, please refer to 2020-HQFO-00480. This office can be reached at FOIA@HQ.DHS.GOV or call 202-343-1743 or toll free 1-866-431-0486.

Sincerely,

A handwritten signature in black ink that reads "James V.M.L. Holzer, J." with a stylized flourish at the end.

James V.M.L. Holzer
Deputy Chief FOIA Officer

Enclosure(s): Responsive Documents, 7 pages



Homeland
Security

September 17, 2018

Dear Ms. Rudolph:

The U.S. Department of Homeland Security (Department) received your letter and memorandum dated August 16, 2018, announcing a reopening of an investigation regarding the “detention conditions of children and families, and the policies, practices, and procedures governing the detention and separation of families.” I have been asked by the Department to respond on its behalf.

The Department does not see how the investigative topics addressed in your letter fall within the jurisdiction of the United States Commission on Civil Rights (“USCCR” or “Commission”). The interrogatories attached to your letter (the “Interrogatories”) address general policy and operational matters concerning the enforcement of immigration laws. Therefore, we respectfully request that the Commission articulate the specific statutory basis for this investigation.

Your letter refers to USCCR’s 2015 report on immigration detention facilities, which recommended to former President Obama and former Secretary of Homeland Security Jeh Johnson that they “act immediately to release families from detention.” See Letter of Transmittal letter of Chairman Martin R. Castro Letter of Transmittal accompanying the 2015 Statutory Enforcement Report, *The State of Civil Rights at Immigration Detention Facilities* (the “2015 Report”). The Commission also recommended that “Congress should no longer fund family detention and should reduce its funding for immigration detention generally....” *Id.* Those recommendations were not adopted or implemented by the prior Administration.

We note that the 2015 Report—which assessed detention practices generally—made no findings whatsoever concerning, discrimination against any protected class identified in the Commission’s authorizing statute. Thus, it is not surprising that two commissioners doubted the jurisdiction of the Commission to conduct the review that resulted in the 2015 Report. See 2015 Report at 217-19 (Statement of Commissioner Heriot); 2015 Report at 220-21 (Statement of Commissioner Kirsanow).¹ The 2015 Report on DHS detention facilities was framed as a study under 42 U.S.C. § 1975a(a)(2) of issues related to “discrimination or denials of equal protection

¹ Additionally, while your correspondence of August 16, 2018, refers to the Commission’s ongoing “investigation,” we note that Congress has limited the Commission’s *investigatory* authority to “allegations in writing under oath of affirmation relating to deprivations—(A) because of color, race, religion, sex, age, disability, or national origin . . . of the right of citizens of the United States to vote and have votes counted. . . .” 42 U.S.C. § 1975a(a)(1). DHS’s immigration enforcement authorities do not involve voting rights of U.S. citizens in any way.

of the laws under the Constitution of the United States because of color, race, religion, sex, age, disability, or national origin, or in the administration of justice.”

The final 2015 Report did not, however, include findings of discrimination related to any of the groups mentioned above, but rather recommended changes to the entire immigration detention system. The Interrogatories, which further focus on issues unrelated to discrimination or unequal treatment, seem even further outside the scope of USCCR’s functions and duties.²

Even if, contrary to your correspondence, the Commission is requesting information in order to conduct a study or an appraisal unrelated to an investigation, 42 U.S.C. § 1975a would require that the study or appraisal relate to denials of equal protection in the “administration of justice.” It is not apparent whether the Interrogatories, which focus on the Administration’s now-revised border operations and policies, relate to the administration of justice; rather, they appear to relate to immigration policies and operations. Those policies and operations are often the subjects of congressional oversight, and are not within the jurisdiction of the Commission. At a minimum, even if the Commission’s request is within its jurisdiction, the scope of the Interrogatories would need to be significantly narrowed.

In the interest of avoiding the unnecessary expenditure of the limited resources of either DHS or the Commission, it is important for the Commission to explain clearly the aims and scope of its inquiry and to justify how the inquiry falls within the authority of the Commission under its authorizing statute. As I am sure you are aware, the Department is currently defending in federal court challenges to the policies identified in your correspondence. In addition, congressional committees, the DHS Inspector General, and the DHS Office for Civil Rights and Civil Liberties have conducted or are conducting a review of those policies and their implementation. It is difficult to understand how additional review by yet another body—one without apparent statutory authority, and with no specific expertise in immigration policy or enforcement—would add constructively to the shaping of policies and practices in this area.

Finally, there is reason for concern about the aims of the Commission in light of the 2015 Report. When issuing that report, the Chairman of the Commission wrote that the motto of ICE and CBP should be “[t]o us, no aliens are human.” Statement of Chairman Martin R. Castro, 2015 Report at 147. It would be difficult for the Commission to issue a more outrageous, inflammatory, and demeaning statement. Even though that statement was addressed to the prior Administration’s management of immigration enforcement, we do not take lightly the denigration of the thousands of ICE and CBP enforcement officers and agents who enforce our Nation’s immigration laws in good faith and in compliance with federal law.

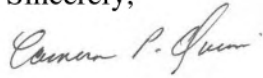
Be assured that DHS is fully committed to the adherence to laws that protect civil rights and civil liberties; that is a central part of our mission. *See* 6 U.S.C. § 111(b)(1)(G) (providing that a

“primary mission of the Department” is to “ensure that the civil rights and civil liberties of persons are not diminished by efforts, activities, and programs aimed at securing the

² Additionally, the reopening of a closed 2015 report in order to investigate discrete immigration detention issues raises additional questions, and a clarification of the authority to do so under the USCCR’s statutes and regulations would be appreciated.

homeland . . ."). DHS welcomes constructive dialogue that assists us in carrying out that mission. We remain open to discussions to understand the Commission's aims and jurisdiction, and will comply with all legal obligations relevant to statutorily valid requests of the Commission.

Sincerely,



Cameron P. Quinn
Officer for Civil Rights and Civil Liberties
U.S. Department of Homeland Security

From:	Venture, Veronica (b)(6)
To:	Sarale Sewell (b)(6) Quinn, Cameron (b)(6)
CC:	(b)(6) Katherine Culliton-Gonzalez (b)(6)
Subject:	Re: USCCR Report - Federal Civil Rights Enforcement - Agency Review Timeline
Date:	2019/04/19 13:22:29
Priority:	Normal
Type:	Note

Thanks, Sarale. We look forward to receiving and reviewing the report. Thanks.

From: Sarale Sewell (b)(6)
Sent: Friday, April 19, 2019 12:53:03 PM
To: Quinn, Cameron; Venture, Veronica
Cc: (b)(6) Katherine Culliton-Gonzalez
Subject: USCCR Report - Federal Civil Rights Enforcement - Agency Review Timeline

Good afternoon Ms. Quinn and Ms. Venture,

This is Sarale Sewell, Social Scientist at the U.S. Commission on Civil Rights. The Commission was in touch last year about our briefing, and our interrogatory and document requests for our federal civil rights evaluation project that is currently underway, examining the enforcement efforts at a number of federal agencies' civil rights offices, including DHS. Thank you for all of your cooperation in sending your responses and participating in our briefing. I wanted to get in touch because the Commission in the process of preparing a draft report for this project, and want DHS to have the opportunity to review the draft report and provide feedback before we complete and publish our final report. We will be sending you a draft report on Friday, May 24th, and will plan to send it electronically via email, to enable you to make redline edits on the document. We will be asking that you complete your review and send us back any edits by Wednesday, June 19th. I wanted to make you aware of this timeline prior to sending the draft, to give you some lead time for planning purposes.

If you have any questions or concerns at this time, or if there is someone else who should be a point person for receiving the report when we send it in May, please let me know.

Thank you,

Sarale Sewell
Social Scientist

U.S. Commission on Civil Rights

P: (b)(6)

(b)(6)

<http://usccr.gov/>

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Washington D.C. 20425

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#USCCR

Sender:	Venture, Veronica (b)(6)
	(b)(6)
Recipient:	Sarale Sewell (b)(6)
	Quinn, Cameron (b)(6)
	(b)(6)
	(b)(6)
	Katherine Culliton-Gonzalez (b)(6)
Sent Date:	2019/04/19 13:22:27
Delivered Date:	2019/04/19 13:22:29

From:	Quinn, Cameron (b)(6)
To:	Sarale Sewell (b)(6) Venture, Veronica (b)(6) (b)(6)
CC:	Katherine Culliton-Gonzalez (b)(6)
Subject:	RE: USSCR Report - Federal Civil Rights Enforcement - Agency Review Timeline
Date:	2019/04/21 22:26:28
Priority:	Normal
Type:	Note

Ms. Sewell – many thanks for the update! You have the key POCs for the office for this report on this email.

Best, Cameron

From: Sarale Sewell (b)(6)
Sent: Friday, April 19, 2019 12:53 PM
To: Quinn, Cameron (b)(6); Venture, Veronica (b)(6)
Cc: (b)(6); Katherine Culliton-Gonzalez (b)(6)
Subject: USSCR Report - Federal Civil Rights Enforcement - Agency Review Timeline

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If you have any questions or concerns at this time, or if there is someone else who should be a point person for receiving the report when we send it in May, please let me know.

Thank you,

Sarale Sewell

Social Scientist

U.S. Commission on Civil Rights

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<http://usccr.gov/>

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#USCCR

Sender:	Quinn, Cameron (b)(6)
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Recipient:	Sarale Sewell (b)(6)
	Venture, Veronica (b)(6)
	(b)(6)
	Katherine Culliton-Gonzalez (b)(6)
Sent Date:	2019/04/21 22:26:26
Delivered Date:	2019/04/21 22:26:28