



**Homeland
Security**

Privacy Office, Mail Stop 0655

June 25, 2020

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

Austin R. Evers
Executive Director
1030 15th Street, NW
Suite B255
Washington, DC 20005

Re: **2020-HQFO-00803**

Dear Mr. Evers:

This is the final response to your Freedom of Information Act (FOIA) request to the Department of Homeland Security (DHS) U.S. and Customs and Border Protection (CBP), dated March 19, 2020, seeking data depicting the following:

- (1) number of COVID-19 tests requested by and provided to CBP facilities;
- (2) the number of individuals in CBP facilities tested for COVID-19;
- (3) the number of tests that returned a positive determination as well as a negative determination; and the number of coronavirus-related fatalities from January 30, 2020 through the present.

This office received your request on April 2, 2020

A search of the Department of Homeland Security (DHS), U.S. and Customs and Border Protection (CBP)/Office of U.S. Border Patrol for documents responsive to your request produced a total of 8 pages. Of those pages, I have determined that 1 page is releasable in its entirety and 7 pages are partially releasable pursuant to Title 5 U.S.C. § 552 (b)(6), (b)(7)(C), and (b)(7)(E), FOIA Exemptions 6, b7(C), and b7(E).

Enclosed are 8 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.

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 particular 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.

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 determined that disclosure of law enforcement system checks could reasonably be expected to risk circumvention of the law. Additionally, the techniques and procedures at issue are not well known to the public.

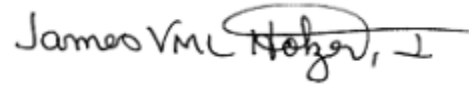
You have a right to appeal the above withholding determination. Should you wish to do so, you must send your appeal and a copy of this letter, within 90 days of the date of this letter, to: Privacy Office, Attn: FOIA Appeals, U.S. Department of Homeland Security, 2707 Martin Luther King Jr. Avenue, SE, 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-00803. 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". The signature is written in a cursive style with a horizontal line extending from the end.

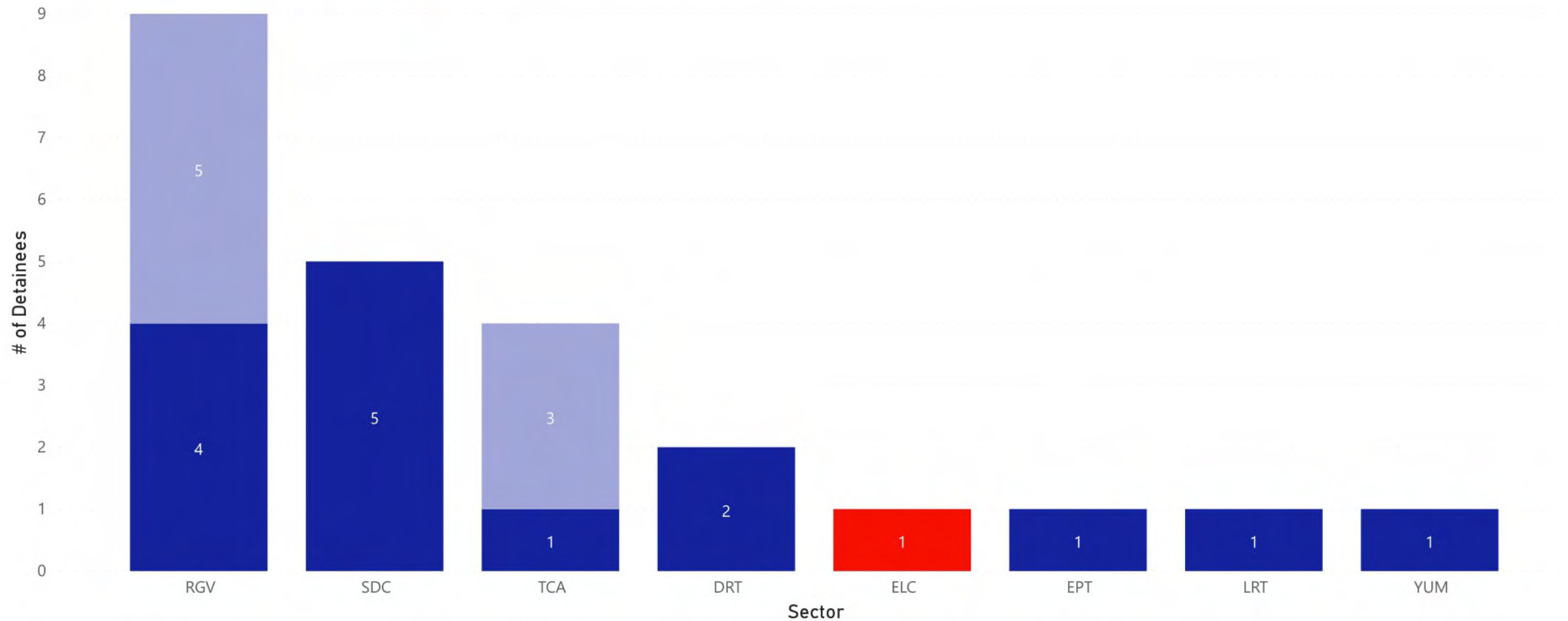
James V. M. L. Holzer
Deputy Chief FOIA Officer

Enclosure(s): Responsive Document, 8 pages

USBP Detainees Monitored or Tested for COVID-19

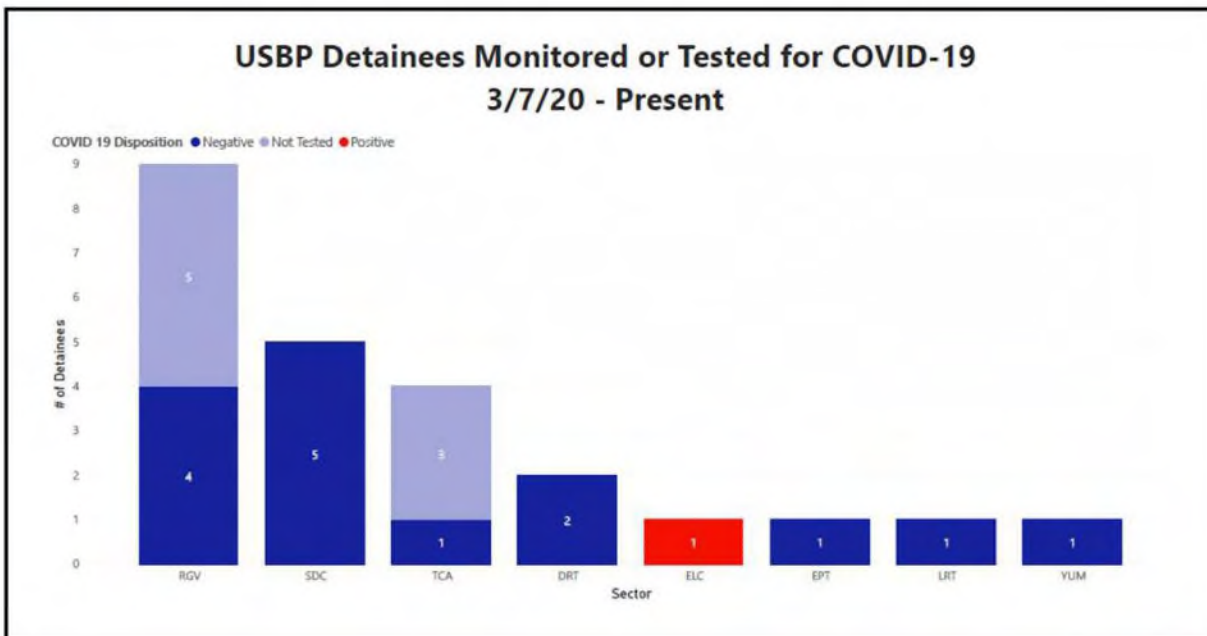
3/7/20 - Present

COVID 19 Disposition ● Negative ● Not Tested ● Positive



From: (b)(6);
To: (b)(7)(C) BPTasking
Cc: OPS PROGRAMS, SPECIALTY PROGRAMS/PLANNING; OPS SPECIAL OPERATIONS (b)(6); (b)(7)(C) USBP CAT (b)(6); (b)(7)(C)
Subject: RE: HOT *****SHORT TURN AROUND - RE: FOIA Assignment for CBP-2020-044261
Date: Friday, May 8, 2020 4:32:05 PM
Attachments: USBP Detainee COVID Monitoring_05082020.pdf
image006.png

USBP HQ EOC reports the following:



As of 5/8/2020 2400 hours

- (1) number of COVID-19 tests requested by and provided to U.S. Border Patrol detention facilities:

USBP has **NOT RECEIVED** any COVID-19 Tests from any source.

USBP **DOES NOT** conduct COVID-19 Testing of any kind in its temporary holding / processing facilities to date.

- (2) the number of detainees in U.S. Border Patrol facilities tested for COVID-19:

Since 03/07/2020, USBP is aware of **16** detainees in temporary custody being tested for COVID-19 by local medical/health system. Those listed as **not tested** had been isolated after consultation with medical system / CDC guidance out of abundance of caution to protect the temporary detainee population, USBP law enforcement officers, their families, and the local community.

- (3) the number of detainee tests that returned a positive determination as well as a negative determination:

Since 03/07/2020, USBP reports **1** Detainee TESTING POSITIVE for COVID-19 while in temporary custody

Since 03/07/2020, USBP reports **15** Detainees TESTING NEGATIVE for COVID-19 while in temporary custody

- (4) the number of coronavirus-related detainee fatalities from January 30, 2020 through the present –

Since 01/30/2020, USBP reports **ZERO FATALITIES** of detainees while in temporary custody.

Respectfully,

(b)(6); (b)(7)(C) Assistant Chief | Emergency Manager | Special Operations Headquarters | U.S. Border Patrol | Washington D.C.
(b)(6); (b)(7)(C)



From: (b)(6); (b)(7)(C)
Sent: Friday, May 8, 2020 3:06 PM
To: OPS PROGRAMS SPECIALTY PROGRAMS/PLANNING (b)(7)(E) OPS SPECIAL
OPERATIONS (b)(7)(E)
Cc: (b)(6); (b)(7)(C)
Subject: FW: FOIA Assignment for CBP-2020-044261

ALCON,

I just launched the below and attached so you might be getting tasked with it.

Freedom of Information Act Request Coordination

(b)(6); (b)(7)(C)
U.S. Border Patrol Headquarters
1300 Pennsylvania Ave. N.W. 6.5E
Washington, DC 20229
Desk: (b)(6); (b)(7)(C)
Cell: (b)(6); (b)(7)(C)
Email: (b)(6); (b)(7)(C)

From: (b)(6); (b)(7)(C)
Sent: Friday, May 8, 2020 3:03 PM
To: (b)(6); (b)(7)(C)
Cc: (b)(6); (b)(7)(C)
Subject: FW: FOIA Assignment for CBP-2020-044261

Alcon,

This is an expedited request from DHS level, 2020-HQFO-00727. The full request is attached.

Please see the attached expedited FOIA request (MULTI-20-0609-0613)

These questions pertain to U.S. Border Patrol detainees only. Please provide answers and relevant records concerning the following:

- (1) number of COVID-19 tests requested by and provided to U.S. Border Patrol detention facilities
- (2) the number of detainees in U.S. Border Patrol facilities tested for COVID-19
- (3) the number of detainee tests that returned a positive determination as well as a negative determination
- (4) the number of coronavirus-related detainee fatalities from January 30, 2020 through the present

Due: ASAP

Freedom of Information Act Request Coordination

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

U.S. Border Patrol Headquarters
1300 Pennsylvania Ave. N.W. 6.5E
Washington, DC 20229

Desk: (b)(6); (b)(7)(C)

Cell:

Email: (b)(6); (b)(7)(C)

From: admin@foiaonline.gov <admin@foiaonline.gov>

Sent: Sunday, March 22, 2020 3:30 PM

To: USBP FOIA (b)(7)(E)

Subject: FOIA Assignment for CBP-2020-044261

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

You have been assigned to the FOIA request - CBP-2020-044261. Additional details for this item are as follows:

- Tracking Number: CBP-2020-044261
- Requester: Austin R Evers
- Request Track: Complex
- Submitted Date: 03/19/2020
- Due Date: 04/20/2020
- Short Description: N/A
- Description: Please see the attached expedited FOIA request (MULTI-20-0609-0613), which contains our fee waiver justification.
- Assigned Comments: USBP: Please conduct a search of records/information that are responsive to this request by March 30, 2020. See details of the request under the Submission Details tab, attach all pertinent records using the Upload Responsive Records tab, choosing the disposition "UU". Please assign completed searches with responsive records to the OBPCComplete queue. If you have any questions or have determined that this case was sent to you in error please reach out to your FOIA liaison (b)(6); (b)(7)(C)

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

From: (b)(6); (b)(7)(C)
To: (b)(6); (b)(7)(C)
Cc: OPS PROGRAMS SPECIALTY PROGRAMS/PLANNING; OPS SPECIAL OPERATIONS;
Subject: RE: HOT ****SHORT TURN AROUND - RE: FOIA Assignment for CBP-2020-044261
Date: Friday, May 8, 2020 3:59:47 PM
Attachments: image003.png

USBP CAT has maintained in-house surveillance of this situation in anticipation of what would come as a potential question such as this one.

For record, we only have information going back to March 7, 2020. We can not answer prior to that. This was as far back as anyone has been able to provide us information about any detainee being tested.

We are currently updating the document we use to track this and will be generating a new chart with the latest information.

Stand-by for an answer to all questions (b)(6); (b)(7)(C) thanks for verifying our responses.

Respectfully,

(b)(6); (b)(7)(C) Assistant Chief | Emergency Manager | Special Operations Headquarters | U.S. Border Patrol | Washington D.C.
(b)(6); (b)(7)(C)



From: (b)(6); (b)(7)(C)
Sent: Friday, May 8, 2020 3:53 PM
To: (b)(6); (b)(7)(C) USBP CAT (b)(6); (b)(7)(C); (b)(7)(E)
(b)(6); (b)(7)(C)
Cc: OPS PROGRAMS SPECIALTY PROGRAMS/PLANNING (b)(7)(E) OPS SPECIAL OPERATIONS (b)(7)(E)
Subject: RE: HOT ****SHORT TURN AROUND - RE: FOIA Assignment for CBP-2020-044261

Sorry, I see that Q2 was for CAT. Please disregard my answer.

From: (b)(6); (b)(7)(C)
Sent: Friday, May 8, 2020 3:47 PM
To: (b)(6); (b)(7)(C) USBP CAT (b)(6); (b)(7)(C)
(b)(6); (b)(7)(C)
Cc: OPS PROGRAMS SPECIALTY PROGRAMS/PLANNING (b)(6); (b)(7)(C) OPS SPECIAL OPERATIONS (b)(6); (b)(7)(C); (b)(7)(E)
Subject: RE: HOT ****SHORT TURN AROUND - RE: FOIA Assignment for CBP-2020-044261

(1) the number of detainees in U.S. Border Patrol facilities tested for COVID-19:

USBP has not tested any detainee while within a USBP facility.

(b)(7)(E)

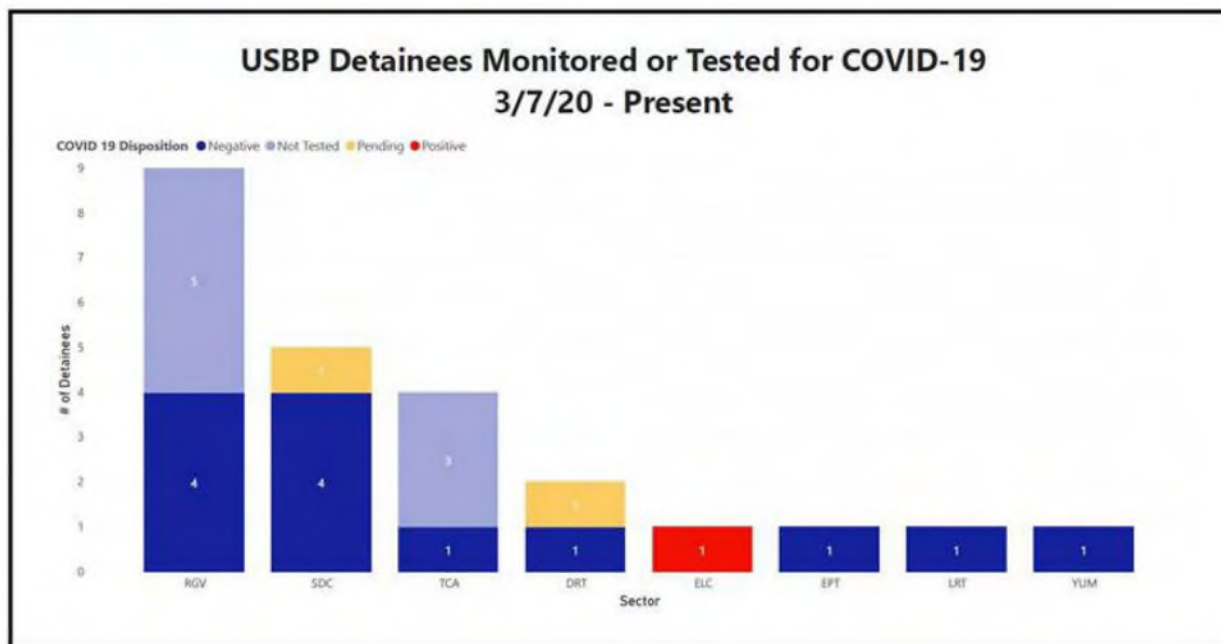
From: (b)(6); (b)(7)(C)
Sent: Friday, May 8, 2020 3:24 PM
To: USBP CAT (b)(6); (b)(7)(C); (b)(7)(E)
(b)(6); (b)(7)(C)
Cc: OPS PROGRAMS SPECIALTY PROGRAMS/PLANNING (b)(7)(E) OPS SPECIAL OPERATIONS (b)(6); (b)(7)(C); (b)(7)(E)
Subject: HOT ****SHORT TURN AROUND - RE: FOIA Assignment for CBP-2020-044261

USBP CAT (b)(6); (b)(7)(C)

Please generate an updated PDF with the information collected: (as of 05/08/2020 – latest) the below was as of 05/06/2020 which was the latest change detected/reported to USBPCAT

USBP CAT, please verify my numbers below

SOH, please verify my response to first question within the medical program



As of 5/6/2020 2400 hours

These questions pertain to U.S. Border Patrol detainees only. Please provide answers and relevant records concerning the following:

- (1) number of COVID-19 tests requested by and provided to U.S. Border Patrol detention facilities: **we have not received any COVID-19 Tests at USBP Facilities to date**
- (2) the number of detainees in U.S. Border Patrol facilities tested for COVID-19: **PROVIDE TOTAL TESTED**
- (3) the number of detainee tests that returned a positive determination as well as a negative determination: **1 TESTED POSITIVE IN USBP CUSTODY, 13 TESTED NEGATIVE IN USBP CUSTODY**
- (4) the number of coronavirus-related detainee fatalities from January 30, 2020 through the present – **ZERO REPORTED FATALITIES IN USBP CUSTODY**

Respectfully,

(b)(6); (b)(7)(C) Assistant Chief | Emergency Manager | Special Operations Headquarters | U.S. Border Patrol | Washington D.C.

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



From: (b)(6); (b)(7)(C)

Sent: Friday, May 8, 2020 3:06 PM

To: OPS PROGRAMS SPECIALTY PROGRAMS/PLANNING (b)(7)(E); OPS SPECIAL OPERATIONS (b)(7)(E)

Cc: (b)(6); (b)(7)(C)

Subject: FW: FOIA Assignment for CBP-2020-044261

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Sent: Friday, May 8, 2020 3:03 PM

To: (b)(6); (b)(7)(C)

Cc:

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- Requester: Austin R Evers
- Request Track: Complex
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- Due Date: 04/20/2020
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