



**Homeland
Security**

Privacy Office, Mail Stop 0655

March 9, 2021

SENT VIA EMAIL TO: foia@americanoversight.org

Austin Evers
Executive Director
American Oversight
1030 15th Street, NW
Suite B255
Washington, DC 20005

Re: **2020-HQFO-01682**

Dear Mr. Evers:

This is the final response to your Freedom of Information Act (FOIA) request to the Department of Homeland Security (DHS), dated August 20, 2020, and received by this office on August 20, 2020. You are seeking all records reflecting any directive, order, decision, protocols, or guidance implementing the Presidential Proclamation Suspending Entry of Aliens Who Present a Risk to the U.S. Labor Market Following the Coronavirus Outbreak, published at Presidential Proclamation No. 10052, 85 Fed. Reg. 38263 (June 22, 2020).

A search of DHS Office of Chief Information Officer, Office of General Counsel and the Office of the Executive Secretary for records responsive to your request produced 94 pages that are responsive to your request. After review of those documents, I have determined that 21 pages have been withheld in their entirety and portions of 9 pages will be withheld pursuant to Exemptions (b)(5) and (b)(6) of the FOIA as described below.

FOIA Exemption 5 protects from disclosure those inter- or intra-agency documents that are normally privileged in the civil discovery context. The three most frequently invoked privileges are the deliberative process privilege, the attorney work-product privilege, and the attorney-client privilege. After carefully reviewing the responsive documents, I determined that the responsive documents qualify for protection under:

- **Deliberative Process Privilege**

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.

- **Attorney-Client Privilege**

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.

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 balancing test.

During our search for responsive records, our office located 65 pages of records (one of those pages is a portion of a page) that are under the purview of the U.S. Department of State (State Department). Therefore, I am transferring your request, along with those responsive documents, to the FOIA Officer for the State Department, and the State Department will be processing and directly responding to you. If you have any questions you may contact the State Department at FOIARequest@state.gov.

As previously stated in the DHS Privacy Office letter, dated February 23, 2021, our office located records under the purview of U.S. Citizenship & Immigration Services (USCIS). Therefore, we transferred your request to USCIS for processing and direct respond to you. Please find their contact information below:

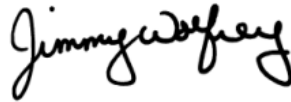
U.S. Citizenship & Immigration Services (USCIS)
National Records Center, FOIA/PA Office
P. O. Box 648010
Lee's Summit, MO. 64064-8010
Phone: 1-800-375-5283 (USCIS Contact Center) | Fax: 816-350-5785 | E-mail:
uscis.foia@uscis.dhs.gov
[USCIS Website](https://uscis.dhs.gov)

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, 245 Murray Lane, SW, Mail Stop 0655, Washington, D.C. 20528-0655, following the procedures outlined in the DHS FOIA regulations at 6 C.F.R. Part 5 § 5.8. Your envelope and letter should be marked "FOIA Appeal." Copies of the FOIA and DHS FOIA regulations are available at www.dhs.gov/foia.

If you need any further assistance or would like to discuss any aspect of your request, please contact the analyst below who processed your request and refer to **2020-HQFO-01682**. You may send an e-mail to foia@hq.dhs.gov, call 202-343-1743 or toll free 1-866-431-0486, or you may contact our FOIA Public Liaison in the same manner.

Additionally, you have a right to right to seek dispute resolution services from the Office of Government Information Services (OGIS) which mediates disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation.

Sincerely,

A handwritten signature in black ink, appearing to read "Jimmy Wolfrey". The signature is fluid and cursive, with the first name "Jimmy" and last name "Wolfrey" clearly distinguishable.

Jimmy Wolfrey
Senior Director, FOIA Operations and Management
(Acting)

Enclosure(s): Responsive Records, 9 pages

From:	(b)(6)
To:	Mizelle Chad (b)(6) (b)(6) (b)(6)
CC:	(b)(6)
Subject:	GOMEZ et al v. TRUMP - 1:20-cv-01419-APM (Administrative Record)
Date:	2020/07/23 18:51:57
Priority:	Normal
Type:	Note

Chad (b)(6) -

I am reaching out to you regarding the above identified case, challenging the June 22 Presidential Proclamation 10052 "Suspension of Entry of Immigrants and Nonimmigrants Who Present a Risk to the United States Labor Market During the Economic Recovery Following the 2019 Novel Coronavirus Outbreak". A copy of the proclamation and the amended complaint are attached. (b)(5)

(b)(5)

(b)(5)

(b)(5)

Please let me know if you have any questions/comments.

Thank you in advance.

(b)(5)

(b)(6)

Attorney Advisor
Office of the General Counsel
Dept. of Homeland Security
Desk: (b)(6)
Mobi

(b)(6)

This communication, along with any attachments, is covered by federal and state law governing electronic communications and may contain confidential and legally privileged information. If the reader for this message is not the intended recipient, you are hereby notified that any dissemination, distribution, use, or copying of this message or portion thereof is strictly prohibited. If you have received this message in error, please reply immediately to the sender and delete this message. Thank you.

Sender:	(b)(6)
Recipient:	Mizelle, Chad (b)(6) (b)(6)
Sent Date:	2020/07/23 18:51:38
Delivered Date:	2020/07/23 18:51:57

From:	(b)(6)
To:	Mizelle, Chad (b)(6) (b)(6)
CC:	(b)(6)
Subject:	RE: GOMEZ et al v. TRUMP - 1:20-cv-01419-APM (Administrative Record) PRIVILEGED
Date:	2020/07/27 16:33:00
Priority:	Normal
Type:	Note

(b)(6) at DHS is leading our discussions about th (b)(5) and I am involved as well, among others.

(b)(5)

(b)(6)

From: (b)(6)
Sent: Monday, July 27, 2020 4:29 PM
To: (b)(6) Mizelle, Chad (b)(6)
Cc: (b)(6)
Subject: RE: GOMEZ et al v. TRUMP - 1:20-cv-01419-APM (Administrative Record) PRIVILEGED

(b)(6)

(b)(5)

Thank you.

(b)(6)

Attorney Advisor
Office of the General Counsel
Dept. of Homeland Security
Desk: (b)(6)
Mobil (b)(6)

(b)(6)

This communication, along with any attachments, is covered by federal and state law governing electronic communications and may contain confidential and legally privileged information. If the reader for this message is not the intended recipient, you are hereby notified that any dissemination, distribution, use, or copying of this message or portion thereof is strictly prohibited. If you have received this message in error, please reply immediately to the sender and delete this message. Thank you.

From: (b)(6)

Sent: Friday, July 24, 2020 12:42 PM

To: (b)(6) Mizelle, Cha (b)(6)

Cc: (b)(6)

(b)(6)

Subject: RE: GOMEZ et al v. TRUMP - 1:20-cv-01419-APM (Administrative Record) PRIVILEGED

(b)(6) Thank you for your email.

(b)(5)

Thank you.

(b)(6)

Attorney Advisor
Office of the General Counsel
Dept. of Homeland Security

Desk (b)(6)

Mobi

(b)(6)

This communication, along with any attachments, is covered by federal and state law governing electronic communications and may contain confidential and legally privileged information. If the reader for this message is not the intended recipient, you are hereby notified that any dissemination, distribution, use, or copying of this message or portion thereof is strictly prohibited. If you have received this message in error, please reply immediately to the sender and delete this message. Thank you.

From: (b)(6)

Sent: Friday, July 24, 2020 12:15 PM

To: (b)(6)

Mizelle, Chad (b)(6)

Cc: (b)(6)

(b)(6)

Subject: RE: GOMEZ et al v. TRUMP - 1:20-cv-01419-APM (Administrative Record) PRIVILEGED

(b)(5)

(b)(6)

From: (b)(6)

Sent: Friday, July 24, 2020 11:21 AM

To: Mizelle, Chad (b)(6)

Cc: (b)(6)

(b)(6)

Subject: RE: GOMEZ et al v. TRUMP - 1:20-cv-01419-APM (Administrative Record)

Chad, (b)(6) –

(b)(5)

Thank you.

(b)(6)

Attorney Advisor

Office of the General Counsel

Dept. of Homeland Security

Desk: (b)(6)

Mobil

(b)(6)

This communication, along with any attachments, is covered by federal and state law governing electronic communications and may contain confidential and legally privileged information. If the reader for this message is not the intended recipient, you are hereby notified that any dissemination, distribution, use, or copying of this message or portion thereof is strictly prohibited. If you have received this message in error, please reply immediately to the sender and delete this message. Thank you.

From: (b)(6)

Sent: Thursday, July 23, 2020 6:52 PM

To: Mizelle, Chad (b)(6)

Cc: (b)(6)

(b)(6)

Subject: GOMEZ et al v. TRUMP - 1:20-cv-01419-APM (Administrative Record)

Chad (b)(6)

(b)(5)

Please let me know if you have any questions/comments.

Thank you in advance.

(b)(5)

(b)(6)

Attorney Advisor
Office of the General Counsel
Dept. of Homeland Security
Desk: (b)(6)
Mobil

(b)(6)

This communication, along with any attachments, is covered by federal and state law governing electronic communications and may contain confidential and legally privileged information. If the reader for this message is not the intended recipient, you are hereby notified that any dissemination, distribution, use, or copying of this message or portion thereof is strictly prohibited. If you have received this message in error, please reply immediately to the sender and delete this message. Thank you.

Sender: (b)(6)

Recipient:	(b)(6)
	Mizelle Chad (b)(6)
Sent Date:	2020/07/27 16:33:59
Delivered Date:	2020/07/27 16:33:00

From:	Rehberg, Sara (b)(6)
To:	(b)(6)
Subject:	RE: FURTHER IMPLEMENTATION PROCEDURES AND GUIDANCE FOR P. P. 10052 SUSPENDING ENTRY OF IMMIGRANTS AND NONIMMIGRANTS WHO PRESENT RISK TO THE U.S. LABOR MARKET DURING THE ECONOMIC RECOVERY FOLLOWING THE COVID-19 OUTBREAK (NATIONAL INTEREST EXCEPTIONS)
Date:	2020/08/12 09:30:00
Priority:	Normal
Type:	Note

Thanks for flagging! I hadn't seen that yet!

Sarah Rehberg
Assistant Secretary for Border Security and Immigration
U.S. Department of Homeland Security

Mobile (b)(6)

From: (b)(6)
Sent: Wednesday, August 12, 2020 8:00 AM
To: Rehberg, Sara (b)(6)
Subject: FW: FURTHER IMPLEMENTATION PROCEDURES AND GUIDANCE FOR P. P. 10052 SUSPENDING ENTRY OF IMMIGRANTS AND NONIMMIGRANTS WHO PRESENT RISK TO THE U.S. LABOR MARKET DURING THE ECONOMIC RECOVERY FOLLOWING THE COVID-19 OUTBREAK (NATIONAL INTEREST EXCEPTIONS)

Hi Sarah,

FYA – in case you hadn't already seen this. This guidance originally came out last Friday, but State issued this corrected version last night.

Hope all is well,
(b)(6)

Referred to Another Agency/Component