

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



U.S. Immigration
and Customs
Enforcement

May 23, 2022

Hart Wood
American Oversight
1030 15th Street, NW
Suite B255
Washington, DC 20005

**RE: ICE FOIA Case Number 2022-ICFO-15837
USCIS FOIA Case Number 2021-HQFO-00626**

Dear Requester Wood:

This is the final response to your Freedom of Information Act (FOIA) request to U.S. Department of Homeland Security Privacy Office (DHS PRIV) dated August 10, 2021. You are seeking the following information:

1. Copies of any SF-50 forms for Tracy Short, reflecting any change in position or title, including when Mr. Short entered or left a position;
2. Records sufficient to identify any requests to OPM (including any approvals, rejections, or other responses from OPM) to appoint Mr. Short to a permanent competitive, non-political excepted service, or career SES position (including but not limited to any pre-appointment request checklist forms OPM 5000 or 5001, or other forms used for any such request, documentation submitted with any such request, and decisions conveyed in response to any such request);
3. Records sufficient to identify any requests to OPM (including any approvals, rejections, or other responses from OPM) under 5 CFR 3318(a), (c)(1), for approval to pass over a preference eligible or object to an eligible for the position of EOIR Chief Immigration Judge (including but not limited to any forms SF-62 or other forms used for any such request, documentation submitted with any such request, and decisions conveyed in response to any such request);
4. Records sufficient to identify the number of applicants to the position of EOIR Chief Immigration Judge;
5. The resume or curriculum vitae (CV) submitted by Tracy Short in connection with any application or consideration for the position of EOIR Chief Immigration Judge; and
6. Records reflecting all postings soliciting applications for the position of EOIR Chief Immigration Judge.

A search of DHS PRIV for records responsive to your request produced records that originated from U.S. Immigration and Customs Enforcement (ICE). DHS PRIV referred these records to ICE for review and processing under the FOIA, 5 U.S.C. § 552.

After review of the records referred by DHS PRIV, I have determined that portions of the documents will be withheld pursuant to Exemptions of the FOIA. The specific Exemptions applied are identified within the enclosed documents. Descriptions of those Exemptions are enclosed.

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 following the procedures outlined in the DHS FOIA regulations at 6 C.F.R. Part 5 § 5.8. You may submit your appeal electronically at GILDFOIAAppeals@ice.dhs.gov or via regular mail to:

U.S. Immigration and Customs Enforcement
Office of the Principal Legal Advisor
U.S. Department of Homeland Security
500 12th Street, S.W., Mail Stop 5900
Washington, D.C. 20536-5900

Your envelope and letter should be marked “FOIA Appeal.” Copies of the FOIA and DHS 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 FOIA office and reference the ICE FOIA case number in the subject line of this letter. You may send an e-mail to ice-foia@ice.dhs.gov, call toll free (866) 633-1182, or you may contact our FOIA Public Liaison, Marcus Francis, in the same manner. Additionally, you have a 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. If you are requesting access to your own records (which is considered a Privacy Act request), you should know that OGIS does not have the authority to handle requests made under the Privacy Act of 1974. You may contact OGIS 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.

Sincerely,

Meronica D. Stoney

Meronica D. Stoney
Supervisory Paralegal Specialist

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 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.

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. The 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.

NOTIFICATION OF PERSONNEL ACTION

1. Name (Last, First, Middle) SHORT, TRACY L					2. Social Security Number (b)(6); (b)(7)(C)		3. Date of Birth (b)(6); (b)(7)(C)		4. Effective Date 01/27/17														
FIRST ACTION					SECOND ACTION																		
5-A. Code 170		5-B. Nature of Action EXC APPT			6-A. Code		6-B. Nature of Action																
5-C. Code Y7M		5-D. Legal Authority SCH C 213 3301			6-C. Code		6-D. Legal Authority																
5-E. Code		5-F. Legal Authority			6-E. Code		6-F. Legal Authority																
7. FROM: Position Title and Number					15. TO: Position Title and Number SENIOR ADVISOR 17002508 Q14015																		
8. Pay Plan		9. Occ. Code		10. Grade or Level		11. Step or Rate		12. Total Salary		13. Pay Basis		16. Pay Plan GS		17. Occ. Code 0301		18. Grade or Level 15		19. Step or Rate 10		20. Total Salary/Award 161,900.00		21. Pay Basis PA	
12A. Basic Pay		12B. Locality Adj. .00		12C. Adj. Basic Pay		12D. Other Pay .00		20A. Basic Pay 134,776.00		20B. Locality Adj. 27,124.00		20C. Adj. Basic Pay 161,900.00		20D. Other Pay .00									
14. Name and Location of Position's Organization					22. Name and Location of Position's Organization IMMIGRATION AND CUSTOMS ENFORCEMENT OFC OF THE ASSISTANT SECRETARY HS BB0600000000000000 PP 02 2017																		
EMPLOYEE DATA																							
23. Veterans Preference (b)(6); (b)(7)(C) 1 - None 3 - 10-Point/Disability 5 - 10-Point/Other 6 - 10-Point/Compensable/30%					24. Tenure (b)(6); (b)(7)(C) 0 - None 2 - Conditional 1 - Permanent 3 - Indefinite					25. Agency Use			26. Veterans Preference for RIF (b)(6); (b)(7)(C)										
27. FEGLI (b)(6); (b)(7)(C)					28. Annuitant Indicator (b)(6); (b)(7)(C)					29. Pay Rate Determinant (b)(6); (b)(7)(C)													
30. Retirement Plan K (b)(6); (b)(7)(C)					31. Service Comp. Date (Leave) (b)(6); (b)(7)(C)					32. Work Schedule F FULL TIME					33. Part-Time Hours Per Biweekly Pay Period								
POSITION DATA																							
34. Position Occupied (b)(6); (b)(7)(C)					35. FLSA Category (b)(6); (b)(7)(C)					36. Appropriation Code					37. Bargaining Unit Status (b)(6); (b)(7)(C)								
38. Duty Station Code (b)(7)(E)					39. Duty Station (City - County - State or Overseas Location) WASHINGTON DIST OF COLUMBIA DC																		
40. Agency Data		41.		42.		43.		44.															
45. Remarks APPOINTMENT IS INDEFINITE. POSITION IS AT THE FULL PERFORMANCE LEVEL OR BAND. APPOINTMENT AFFIDAVIT EXECUTED 01/27/2017. OPF MAINTAINED BY EOPF. (b)(6); (b)(7)(C) PREVIOUS RETIREMENT COVERAGE: PREVIOUSLY COVERED EMPLOYEE IS AUTOMATICALLY COVERED UNDER FERS, FERS-RAE OR FERS-FRAE. EMPLOYEE SUBJECT TO POST-EMPLOYMENT RESTRICTIONS UNDER 18 U.S.C. 207 (C) .																							
46. Employing Department or Agency HOMELAND SECURITY										50. Signature/Authentication and Title of Approving Official ELECTRONICALLY SIGNED BY: PEGGY GAETHKE (b)(6); ACTING DIR, HUMAN CAPITAL OPERATIONS MULTI-DHS-20-2764-A-000001													
47. Agency Code HS BB		48. Personnel Office ID 1645		49. Approval Date 01/27/17																			

NOTIFICATION OF PERSONNEL ACTION

1. Name (Last, First, Middle) SHORT, TRACY L	2. Social Security Number (b)(6); (b)(7)(C)	3. Date of Birth (b)(6); (b)(7)(C)	4. Effective Date 02/04/07
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FIRST ACTION				SECOND ACTION			
5-A. Code 703	5-B. Nature of Action PROMOTION NTE 08/04/07			6-A. Code	6-B. Nature of Action		
5-C. Code WDM	5-D. Legal Authority SCH A 213.3102D			6-C. Code	6-D. Legal Authority		
5-E. Code	5-F. Legal Authority			6-E. Code	6-F. Legal Authority		

7. FROM: Position Title and Number GEN ATTY 02001254 HCEN9A						15. TO: Position Title and Number SUPVY GEN ATTY 07001293 HO199E									
8. Pay Plan	9. Occ. Code	10. Grade/Level 14	11. Step/Rate 04	12. Total Salary 102,116.00	13. Pay Basis PA	16. Pay Plan	17. Occ. Code	18. Grade/Level 15	19. Step/Rate 01	20. Total Salary/Award 109,200.00	21. Pay Basis PA				
12A. Basic Pay 87,026.00		12B. Locality Adj. 15,090.00		12C. Adj. Basic Pay 102,116.00		12D. Other Pay .00		20A. Basic Pay 93,063.00		20B. Locality Adj. 16,137.00		20C. Adj. Basic Pay 109,200.00		20D. Other Pay .00	
14. Name and Location of Position's Organization						22. Name and Location of Position's Organization IMMIGRATION AND CUSTOMS ENFORCEMENT OFC OF ASST SEC /ASST SEC ASST SEC LEGAL ADVISOR CHIEF COUNSEL/DALLAS HS BB0710130000000000 PP 04 2007									

23. Veterans Preference (b)(6); (b)(7)(C) 1 - None 3 - 10-Point/Disability 5 - 10-Point/Other 2 - 5-Point 4 - 10-Point/Compensable 6 - 10-Point/Compensable/30%				24. Tenure (b)(6); (b)(7)(C) 0 - None 2 - Conditional 1 - Permanent 3 - Indefinite		25. Agency Use	26. Veterans Preference for RIF (b)(6); (b)(7)(C)		
27. EECL (b)(6); (b)(7)(C)				28. Annuitant Indicator (b)(6); (b)(7)(C)		29. Pay Rate Determinant (b)(6); (b)(7)(C)			
30. Retirement Plan (b)(6); (b)(7)(C)				31. Service Comp. Date (Leave) (b)(6); (b)(7)(C)		32. Work Schedule F FULL TIME		33. Part-Time Hours Per Biweekly Pay Period	

34. Position Occupied (b)(6); (b)(7)(C)		35. FLSA Category (b)(6); (b)(7)(C)		36. Appropriation Code		37. Bargaining Unit Status (b)(6); (b)(7)(C)	
38. Duty Station Code (b)(7)(E)		39. Duty Station (City - County - State or Overseas Location) DALLAS DALLAS TX					
40. Agency Data	41.	42.	43.	44.			

45. Remarks

46. Employing Department or Agency HOMELAND SECURITY			50. Signature/Authentication and Title of Approving Official ROBERT W. HOSENFELD ASST COMMISSIONER, DHS-20-2764-A-000002		
47. Agency Code HS BB	48. Personnel Office ID 1145	49. Approval Date 03/03/07			

NOTIFICATION OF PERSONNEL ACTION

1. Name (Last, First, Middle) SHORT, TRACY L	2. Social Security Number (b)(6); (b)(7)(C)	3. Date of Birth (b)(6); (b)(7)(C)	4. Effective Date 9/30/2007
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FIRST ACTION

SECOND ACTION

5-A. Code 702	5-B. Nature of Action PROMOTION	6-A. Code	6-B. Nature of Action
5-C. Code WDM	5-D. Legal Authority SCH A 213.3102D	6-C. Code	6-D. Legal Authority
5-E. Code	5-F. Legal Authority	6-E. Code	6-F. Legal Authority

7. FROM: Position Title and Number	15. TO: Position Title and Number GEN ATTY 07001293 A06352
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8. Pay Plan GS	9. Occ. Code 0905	10. Grade/Level 15	11. Step/Rate 01	12. Total Salary/Award 109,200.00	13. Pay Basis PA		
12A. Basic Pay	12B. Locality Adj. .00	12C. Adj. Basic Pay	12D. Other Pay .00	20A. Basic Pay 93,063.00	20B. Locality Adj. 16,137.00	20C. Adj. Basic Pay 109,200.00	20D. Other Pay .00

14. Name and Location of Position's Organization

22. Name and Location of Position's Organization
**IMMIGRATION AND CUSTOMS ENFORCEMENT
OFC OF ASST SEC /ASST SEC
ASST SEC LEGAL ADVISOR
CHIEF COUNSEL/DALLAS

HS BB0710130000000000 PP 02 2009**

EMPLOYEE DATA

23. Veterans Preference (b)(6); (b)(7)(C) 1 - None 3 - 10-Point/Disability 5 - 10-Point/Other 2 - 5-Point 4 - 10-Point/Compensable 6 - 10-Point/Compensable/30%	24. Tenure (b)(6); (b)(7)(C) 0 - None 2 - Conditional 1 - Permanent 3 - Indefinite	25. Agency Use	26. Veterans Preference for RIF (b)(6); (b)(7)(C)
27. FEGLI (b)(6); (b)(7)(C)	28. Annuitant Indicator (b)(6); (b)(7)(C)	29. Pay Rate Determinant (b)(6); (b)(7)(C)	
30. Retirement Plan (b)(6); (b)(7)(C)	31. Service Comp. Date (Leave) 1/31/2000	32. Work Schedule F FULL TIME	33. Part-Time Hours Per Biweekly Pay Period

POSITION DATA

34. Position Occupied (b)(6); (b)(7)(C) 1 - Competitive Service 3 - SES General 2 - Excepted Service 4 - SES Career Reserved	35. FLSA Category (b)(6); (b)(7)(C) E - Exempt N - Nonexempt	36. Appropriation Code	37. Bargaining Unit Status (b)(6); (b)(7)(C)
38. Duty Station Code (b)(7)(E)	39. Duty Station (City - County - State or Overseas Location) DALLAS DALLAS TX		

40. Agency Data	41.	42.	43.	44.
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45. Remarks

REMOVES TEMPORARY LIMITATION PLACED ON THE LAST ACTION.

46. Employing Department or Agency HOMELAND SECURITY	50. Signature/Authentication and Title of Approving Official CHRISTINE E. GAUGLER ASSISTANT COMMISSIONER, HRM MULTI-DHS-20-2764-A-000003		
47. Agency Code HS BB	48. Personnel Office ID 1145	49. Approval Date 10/1/2007	