



U.S. Customs and
Border Protection

Records released via FOIAonline account.

08/19/2020

CBP-2019-063788

Austin R. Evers
1030 15th St. NW
Suite B255
Washington, DC 20005

Dear Mr. Evers:

This is a final response to your Freedom of Information Act (FOIA) request to U.S. Customs and Border Protection (CBP), on behalf of American Oversight, in which you are seeking all email communications of sent by CBP Commissioner Kevin McAleenan, or anyone serving in the role of his chief of staff or a similar position.

A search of CBP databases produced a total of 3 pages of records responsive to your request. CBP has determined that 3 pages of the records are partially releasable, pursuant to Title 5 U.S.C. § 552 (b)(6), (b)(7)(C) and (b)(7)(E).

Uploaded to your FOIAonline account are 3 pages with certain information withheld as described below:

FOIA Exemption (b)(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 privacy. The types of documents and/or information that we have withheld may consist of birth certificates, naturalization certificates, driver license, social security numbers, home addresses, dates of birth, or various other documents and/or information belonging to a third party that are considered personal. 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 (b)(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.

FOIA Exemption (b)(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. CBP has determined that disclosure could reasonably be expected to risk circumvention of the law.

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. See 5 U.S.C. 552(c). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

This completes the CBP response to your request. You may contact CBP's FOIA Public Liaison, Charlyse Hoskins, by sending an email via your FOIAonline account, mailing a letter to 90 K St, NE MS 1181, Washington DC, 20229 or by calling 202-325-0150. The FOIA Public Liaison is able to assist in advising on the requirements for submitting a request, assist with narrowing the scope of a request, assist in reducing delays by advising the requester on the type of records to request, suggesting agency offices that may have responsive records and receive questions or concerns about the agency's FOIA process.

If you are not satisfied with the response to this request, you have a right to appeal the final disposition. Should you wish to do so, you must file your appeal within 90 days of the date of this letter following the procedures outlined in the DHS regulations at Title 6 C.F.R. §5.9. Please include as much information as possible to help us understand the grounds for your appeal. You should submit your appeal via FOIAonline by clicking on the "Create Appeal" button that appears when you view your initial request. If you do not have computer access, you may send your appeal and a copy of this letter to: FOIA Appeals, Policy and Litigation Branch, U.S. Customs and Border Protection, 90 K Street, NE, 10th Floor, Washington, DC 20229-1177. Your envelope and letter should be marked "FOIA Appeal." Copies of the FOIA and DHS regulations are available at www.dhs.gov/foia.

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.

Please notate file number CBP-2019-063788 on any future correspondence to CBP related to this request.

Sincerely,

FOIA Analyst, FOIA Division
U.S. Customs and Border Protection

From: [MCALEENAN, KEVIN K](#)
To: (b)(6);(b)(7)(C)
Cc: [Hoffman, Jonathan](#); (b)(6)&(b)(7)(C); [FLANAGAN, PATRICK S](#); (b)(6);(b)(7)(C)
Subject: Re: NBC News: Only six immigrants in terrorism database stopped by CBP at southern border in first half of 2018
Date: Monday, January 7, 2019 5:17:41 PM

(b)(7)(E)

Sent from my iPhone

On Jan 7, 2019, at 5:07 PM, (b)(6);(b)(7)(C) > wrote:

...and also to replace it w the real facts to extent we can say them.

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

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

U.S. Department of Homeland Security

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

From: Hoffman, Jonathan (b)(6)&(b)(7)(C)
Sent: Monday, January 7, 2019 5:02 PM
To: (b)(6);(b)(7)(C) MCALEENAN, KEVIN K; (b)(6);(b)(7)(C);
FLANAGAN, PATRICK S
Cc: Wolf, Chad
Subject: Re: NBC News: Only six immigrants in terrorism database stopped by CBP at southern border in first half of 2018

(b)(7)(E)

From: (b)(6);(b)(7)(C)
Sent: Monday, January 7, 2019 4:44 PM
To: (b)(6)&(b)(7)(C) Hoffman, Jonathan; MCALEENAN, KEVIN K
Cc: Wolf, Chad
Subject: Re: NBC News: Only six immigrants in terrorism database stopped by CBP at southern border in first half of 2018

(b)(7)(E)

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

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

U.S. Department of Homeland Security

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

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

Sent: Monday, January 7, 2019 4:37 PM

To: (b)(6)&(b)(7)(C) Hoffman, Jonathan; MCALEENAN, KEVIN K

Cc: Wolf, Chad

Subject: Re: NBC News: Only six immigrants in terrorism database stopped by CBP at southern border in first half of 2018

This 6 number is wrong. She says whole SW border.

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

Sent: Monday, January 7, 2019 4:33:03 PM

To: (b)(6)&(b)(7)(C) Hoffman, Jonathan; MCALEENAN, KEVIN K

Subject: Re: NBC News: Only six immigrants in terrorism database stopped by CBP at southern border in first half of 2018

(b)(7)(E)

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

U.S. Department of Homeland Security

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

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

Sent: Monday, January 7, 2019 4:21 PM

To: (b)(6)&(b)(7)(C) Hoffman, Jonathan; MCALEENAN, KEVIN K

Subject: FW: NBC News: Only six immigrants in terrorism database stopped by CBP at southern border in first half of 2018

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

Sent: Monday, January 7, 2019 4:20 PM

Subject: NBC News: Only six immigrants in terrorism database stopped by CBP at southern border in first half of 2018

(b)(7)(E)

NBC News

Julia Ainsley

January 7, 2019 – 4:10 PM

<https://www.nbcnews.com/politics/immigration/only-six-immigrants-terrorism-database-stopped-cbp-southern-border-first-n955861>

U.S. Customs and Border Protection encountered only six immigrants [on the U.S-Mexico border](#) in the first half of fiscal year 2018 whose names were on a federal government list of known or suspected terrorists, according to CBP data obtained by NBC News.

The low number contradicts statements by Trump administration officials, including White House press secretary Sarah Huckabee Sanders who said Friday that [CBP stopped nearly 4,000 known or suspected terrorists from crossing the southern border](#) in fiscal year 2018.

Secretary of Homeland Security Kirstjen Nielsen told reporters on Monday the exact number, which NBC News is first to report, was classified but that she was working on making it public.

Overall, 41 people on the Terrorist Screening Database were encountered at the southern border from Oct. 1, 2017 through March 31, 2018, but 35 of them were U.S. citizens or lawful permanent residents. Six were classified as non-U.S. persons.

On the northern border, CBP stopped 91 people from the database, including 41 who were not American citizens or residents.

The White House has used the 4,000 figure to make its case for building a wall on the southwest border and for closing the government until Congress funds it. They have also threatened to call a national emergency in order to get over \$5 billion in funding for the wall.