U.S. Department of Homeland Security
Washington, DC 20528

Homeland Security

June 18, 2026

American Oversight
1030 15th Street NW B255
Washington, District of Columbia 20005

Re: **2026-HQFO-02464**

Dear Requester:

This is the electronic final response to your Freedom of Information Act (FOIA) request to the Department of Homeland Security (DHS), dated April 21, 2026, and received by this office on April 21, 2026. You are seeking, from November 1, 2025, through the date the search is conducted, all formal or informal directives, guidance, protocols, or policies created by, issued to, or otherwise provided to your agency regarding the classification of Privacy Threshold Analyses (PTAs) for searches conducted in response to FOIA requests and the application of exemptions.

A search of the **DHS Privacy Office (PRIV)** for documents responsive to your request produced a total of 45 pages. I have considered the foreseeable harm standard when reviewing the record set and have applied the FOIA exemptions as required by the statute and the Attorney General's guidance. Portions of these 45 pages are partially withheld pursuant to Title 5 U.S.C. § 552 (b)(5), (b)(6), and (b)(7)(C).

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 portions of the responsive documents qualify for protection under the following:

- **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

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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 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.

Pursuant to DHS Instruction 262-11-004, FOIA Officers at DHS have been instructed to withhold personally identifiable information (PII) and sensitive personally identifiable information (SPII) of DHS personnel unless a determination is made that the disclosure does not raise security or privacy concerns, or if those concerns are outweighed by any public interest in that information. This policy is available online. Under this policy, the names of senior leaders, spokespersons, and political appointees are generally releasable. With respect to this FOIA request, DHS may have applied FOIA Exemption 6 to protect PII of DHS employees, including names and contact information. To the extent that DHS has withheld employee PII within these records, it has been determined that the employee(s) has/have substantial and legitimate privacy interests and that these interests are not outweighed by any public interest in the operations of the Department.

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

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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.

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

Please follow 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: ogis@nara.gov
Telephone: 202-741-5770; Toll Free at 1-877-684-6448

If you need to contact our office again about this matter, please refer to **2026-HQFO-02464**. This office can be reached at FOIA@HQ.DHS.GOV or call 202-343-1743 or toll free 1-866-431-0486.

Regards,

DHS FOIA, Privacy Office
Department of Homeland Security

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2707 Martin Luther King Jr. AVE SE
Mail Stop 0655
Washington, DC 20528-0655
E-mail: foia@hq.dhs.gov
Visit our FOIA website
https://www.dhs.gov/foia

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From: Pavlik-Keenan, Catrina (b)(6),(b)(7)(C)
(b)(6),(b)(7)(C)
Sent: 3/12/2026 2:14:42 PM
To: Jankowski, Roman (b)(6),(b)(7)(C)
(b)(6),(b)(7)(C) Holzer, James
Subject: FW: PTA Redaction Question

From the past

From: Pavlik-Keenan, Catrina
Sent: Monday, January 27, 2025 8:44 AM
To: (b)(6),(b)(7)(C)
Cc: Holzer, James (b)(6),(b)(7)(C)
Subject: RE: PTA Redaction Question

I think I am going to issue guidance on this too so that we have consistency.

From: (b)(6),(b)(7)(C)
Sent: Monday, January 27, 2025 8:39 AM
To: (b)(6),(b)(7)(C); Pavlik-Keenan, Catrina (b)(6),(b)(7)(C)
Cc: Holzer, James (b)(6),(b)(7)(C)
Subject: RE: PTA Redaction Question

Catrina,

Please find attached previous advice on this question.

In short, each PTA needs to evaluated on a case by case, including segregating out facts to release, withholding underlying rationale that is deliberative until the same information is published in the PIA/SORN, but releasing the final decision of the PTA.

Here, since DHS policy has stated that PTAs are the Department's final decisions on whether a PIA or SORN is required, it is probably best advised to release at least the determination section, and the PIA and SORN section, but withhold the underlying rationale provided in the Component and HQ PRIV comment boxes (but release any factual information that is not deliberative or law enforcement sensitive).

Best,
(b)(6),(b)(7)(C)

(b)(6),(b)(7)(C)
(AIGP, IAPP/US, CIPM, IAPP/ABA Privacy Law Specialist)
Supervisory Attorney-Advisor for Privacy and Information Law (PIL),
Office of the General Counsel (OGC), Legal Counsel Division (LCD)
U.S. Department of Homeland Security (DHS)
(b)(6),(b)(7)(C) (Mobile Phone)
(MS TEAMs Phone)

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Department must be approved by the Office of the General Counsel, U.S. Department of Homeland Security. This document is for INTERNAL GOVERNMENT USE ONLY and may be exempt from disclosure under the Freedom of Information Act (FOIA), 5 U.S.C. 552.

From: (b)(6),(b)(7)(C)
Sent: Monday, January 27, 2025 7:34 AM
To: Pavlik-Keenan, Catrina (b)(6),(b)(7)(C)
Cc: Holzer, James (b)(6),(b)(7)(C)
Subject: RE: PTA Redaction Question

PTAs have been released in the past under FOIA. My understanding was that the PRIV Office Determination was releasable, but the Component recommendation section was considered pre-deliverable/deliberative.

And then whatever PII redactions and LE redactions as well.

Respectfully,
(b)(6),(b)(7)(C)

(b)(6),(b)(7)(C)
Senior Director, Compliance, DHS Privacy Office | U.S. Department of Homeland Security
(b)(6),(b)(7)(C) | (b)(6),(b)(7)(C) | DHS Privacy Website

From: Pavlik-Keenan, Catrina (b)(6),(b)(7)(C)
Sent: Monday, January 27, 2025 6:15 AM
To: (b)(6),(b)(7)(C)
Cc: Holzer, James (b)(6),(b)(7)(C)
Subject: FW: PTA Redaction Question

(b)(6),(b)(7)(C) and (b)(6),(b)(7)(C) I was under the impression that PTAs were never released, they were withheld in full under b5. Please advise how these have been handled. Thanks Catrina

From: (b)(6),(b)(7)(C)
Sent: Wednesday, January 22, 2025 5:21 PM
To: Pavlik-Keenan, Catrina (b)(6),(b)(7)(C)
Cc: (b)(6),(b)(7)(C)
Subject: PTA Redaction Question

Afternoon Deputy,

I have a question for you that I think I can get a final answer on. I am doing all these CBP AI cases for CBP, and they requests are intense and want everything little thing we find for every AI model. However, I decided on my own to pull all the PTA's based of the DHS AI Use Case Inventory to help us in FOIA to narrow these requests down. Giving them the PTA and PIA will help them narrow their requests.

Question is:

CBP Privacy says the section for DHS Privacy Comments should not be redacted. Previously we sent other PTAs to DHS for consult and they redacted that same section as b5. I have over 80 PTAs to send to DHS HQ to review that one section for redactions. If DHS/CBP had a proper process and decision on this section it could save time for both HQ and CBP. Should this section be completely b5 or should it be released in full because it's a final decision based on CBP Privacy comments?

If we are told it should be b5 then no need to send for consults, if they are told not to b5 but need DHS Privacy consult then we can do that.

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I have provided an example for review.

P.S. - Are you staying with DHS and continuing to be my mentor?

Thank you,

(b)(6),(b)(7)(C)
Government Information Specialist, SME
Privacy and Diversity Office, FOIA Division
U.S. Customs and Border Protection

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From: Pavlik-Keenan, Catrina (b)(6),(b)(7)(C)
(b)(6),(b)(7)(C)
Sent: 3/12/2026 2:15:00 PM
To: Jankowski, Roman (b)(6),(b)(7)(C)
(b)(6),(b)(7)(C) Holzer, James
Subject: FW: PTA Redaction Question

From the past

From: Pavlik-Keenan, Catrina
Sent: Monday, January 27, 2025 7:54 AM
To: (b)(6),(b)(7)(C)
Cc: (b)(6),(b)(7)(C) Wolfrey, Jimmy
(b)(6),(b)(7)(C)
Subject: RE: PTA Redaction Question

(b)(6),(b)(7)(C):

PTAs are releasable, but the Component recommendation section is considered pre-deliverable/deliberative and should be withheld under B5.

In addition, please make sure you also redact PII and LE information as well. I hope you find this informative. Also if you have further questions please let us know.

I am staying with DHS!!! Unfortunately, I can't continue to mentor you as I have several significant things I need to work on as the administration has changed, so right now time is tight.

Regards,

Catrina M. Pavlik-Keenan
Deputy Chief Freedom of Information Act Officer
Department of Homeland Security
(b)(6),(b)(7)(C) (c)
(b)(6),(b)(7)(C)

Want to learn more about DHS privacy and FOIA Operations? Visit http://www.dhs.gov/privacy

WARNING: This document is ~~FOR OFFICIAL USE ONLY (FOUO),~~ it contains information that may be exempt from public release under the Freedom of Information Act (5 U.S.C. 552). It is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO information and is not to be released to the public or other personnel who do not have a valid "need-to-know" without prior approval of an authorized DHS official.

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From: (b)(6),(b)(7)(C)
Sent: Wednesday, January 22, 2025 5:21 PM
To: Pavlik-Keenan, Catrina (b)(6),(b)(7)(C)
Cc: (b)(6),(b)(7)(C)
Subject: PTA Redaction Question

Afternoon Deputy,

I have a question for you that I think I can get a final answer on. I am doing all these CBP AI cases for CBP, and they requests are intense and want everything little thing we find for every AI model. However, I decided on my own to pull all the PTA's based of the DHS AI Use Case Inventory to help us in FOIA to narrow these requests down. Giving them the PTA and PIA will help them narrow their requests.

Question is:

CBP Privacy says the section for DHS Privacy Comments should not be redacted. Previously we sent other PTAs to DHS for consult and they redacted that same section as b5. I have over 80 PTAs to send to DHS HQ to review that one section for redactions. If DHS/CBP had a proper process and decision on this section it could save time for both HQ and CBP. Should this section be completely b5 or should it be released in full because it's a final decision based on CBP Privacy comments?

If we are told it should be b5 then no need to send for consults, if they are told not to b5 but need DHS Privacy consult then we can do that.

I have provided an example for review.

P.S. - Are you staying with DHS and continuing to be my mentor?

Thank you,

(b)(6),(b)(7)(C)
Government Information Specialist, SME
Privacy and Diversity Office, FOIA Division
U.S. Customs and Border Protection

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From: (b)(6),(b)(7)(C) (CBP) (b)(6),(b)(7)(C)
(b)(6),(b)(7)(C)
Sent: 12/3/2025 4:53:08 PM
To: PIA (b)(6),(b)(7)(C)
(b)(6),(b)(7)(C); Privacy Points of Contact
CC: (b)(6),(b)(7)(C)
Subject: RE: New Language for PTA Templates
Attachments: FINAL DHS Privacy PTA adjudication - Info Memo to Component Heads.pdf; FINAL PPGM 2025-02 20250204.pdf

Good morning,

Under the authority of the attached Privacy Policy Guidance Memorandum from CPO Jankowski on February 4, 2025, "Effective March 3, 2025, DHS components will assume the review and adjudication of their respective PTAs. Components are responsible for timely analysis while maintaining alignment with DHS privacy policies and legal requirements. This alignment seeks to provide greater flexiblity, streamline operations, and enhance privacy governance within each component. Each component must designate a Component Privacy Official or Privacy Points of Contact to oversee PTA adjudications. DHS PRIV will continue to provide guidance, conduct periodic audits, and retain adjudication authority for enterprise-wide systems."

Seeing as how I am signing my name, as a designed Component Privacy Official, and pdf-ing these documents as a final adjudication of compliance with DHS privacy policies and requirements, I do not believe that these final PTAs can be described as "draft" or "deliberative."

I am adding OGC and CBP OCC. I kindly request a legal determination as to whether these statements are lawful on **adjudicated** PTAs.

(b)(6),(b)(7)(C)

(b)(6),(b)(7)(C)
CBP Privacy Officer
Office of the Commissioner
1300 Pennsylvania Avenue NW Room 3.3D
(b)(6),(b)(7)(C) (m)

(b)(6),(b)(7)(C)

From: PIA (b)(6),(b)(7)(C)
Sent: Wednesday, December 3, 2025 11:18 AM
To: Privacy Points of Contact (b)(6),(b)(7)(C)
Subject: New Language for PTA Templates

Good morning Privacy Points of Contact!

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Please see updated PTA templates that should be used for all submissions to PRIV moving forward. These templates will also be uploaded and available through the PROTECT (also known as PRIVCATS) Help Hub.

Please note the major change to these documents include the following statement on the first page of the document and the footer:

"This is a draft document that is pre-decisional, deliberative, and is designated For Official Use Only (FOUO). It is subject to the deliberative process privilege and attorney client privilege. It is not to be released, shared, or distributed outside of authorized channels without prior consultation and approval from the Department of Homeland Security (DHS) Privacy Office. Unauthorized disclosure may result in administrative, civil, or criminal penalties."

Please let us know if you have any questions and we will address this change as one of the agenda items at the next Monthly Round-Up on December 11th.

Respectfully,

PRIV

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From: Holzer, James (b)(6),(b)(7)(C) (b)(6),(b)(7)(C)
Sent: 11/19/2025 11:22:44 PM
To: (b)(6),(b)(7)(C) Jankowski, Roman; Pavlik-Keenan, Catrina; (b)(6),(b)(7)(C) Taylor, Sandra
Subject: Re: Thoughts

Thanks, I'll take a closer look tomorrow. I think the "applicable regs and policy" phrasing was aimed at the FOUO caveat as CUI is covered there as opposed to law. (b)(5) (b)(5). Happy to discuss.

Regards,

James

James V.M.L. Holzer
Deputy Chief Privacy Officer
Privacy Office
U.S. Department of Homeland Security
(b)(6),(b)(7)(C)

From: (b)(6),(b)(7)(C)
Sent: Wednesday, November 19, 2025 5:04 PM
To: Holzer, James (b)(6),(b)(7)(C); Jankowski, Roman (b)(6),(b)(7)(C); Pavlik-Keenan, Catrina (b)(6),(b)(7)(C); Taylor, Sandra (b)(6),(b)(7)(C)
Subject: RE: Thoughts

Hi James, Thanks for sharing. I have some suggested changes in the attached. I am happy to discuss. (b)(5) (b)(5) (b)(5) Let me know if you want to discuss. (b)(6),(b)(7)(C)

From: Holzer, James (b)(6),(b)(7)(C)
Sent: Wednesday, November 19, 2025 12:48 PM
To: (b)(6),(b)(7)(C) Jankowski, Roman (b)(6),(b)(7)(C); Pavlik-Keenan, Catrina (b)(6),(b)(7)(C); Taylor, Sandra (b)(6),(b)(7)(C)
Subject: RE: Thoughts

We are planning on putting this language on the bottom of the PTAs.

Regards,

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James

James V.M.L. Holzer
Deputy Chief Privacy Officer
Privacy Office
U.S. Department of Homeland Security
(b)(6),(b)(7)(C) (w)
(c)

From: (b)(6),(b)(7)(C)
Sent: Wednesday, November 19, 2025 11:15 AM
To: Holzer, James (b)(6),(b)(7)(C); Jankowski, Roman (b)(6),(b)(7)(C); Pavlik-Keenan, Catrina (b)(6),(b)(7)(C); Taylor, Sandra (b)(6),(b)(7)(C)
Subject: RE: Thoughts

Hi James, can I have some context? I have some thoughts on this. (b)(6),(b)(7)(C)

From: Holzer, James (b)(6),(b)(7)(C)
Sent: Wednesday, November 19, 2025 11:13 AM
To: Jankowski, Roman (b)(6),(b)(7)(C); Pavlik-Keenan, Catrina (b)(6),(b)(7)(C) (b)(6),(b)(7)(C); Taylor, Sandra (b)(6),(b)(7)(C)
Cc: (b)(6),(b)(7)(C)
Subject: Thoughts

How is this?

(b)(5)

Regards,

James

James V.M.L. Holzer
Deputy Chief Privacy Officer
Privacy Office
U.S. Department of Homeland Security
(b)(6),(b)(7)(C) (w)
(c)

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From: Holzer, James (b)(6),(b)(7)(C) (b)(6),(b)(7)(C)
Sent: 12/8/2025 8:39:14 PM
To: (b)(6),(b)(7)(C) Privacy Points of Contact (b)(6),(b)(7)(C) (b)(6),(b)(7)(C)
CC: Jankowski, Roman (b)(6),(b)(7)(C) (b)(6),(b)(7)(C)
Subject: RE: New language for PTA templates

(b)(6),(b)(7)(C)

Thank you for the thoughtful conversation. I wanted to share some of the points I raised during our call in writing. I agree that PTAs are not legal instruments and do not routinely fall under attorney-client privilege and this language would only be applied if applicable, but as discussed and clarified during the call it is important to ensure that the FOUO, deliberative-process protections and the marking of draft are applied to documents to prevent premature disclosure. As discussed, the deliberative process privilege protects pre-decisional analysis rather than the final product, however, the language in the proposed marking reflects that PTAs in draft form include internal recommendations, analysis, and unresolved issues. This is precisely the types of materials that, if disclosed prematurely, could hinder internal discussions or misrepresent Department positions before decisions are finalized. Marking the document accordingly is not about shielding the final record from review, but rather acknowledging that drafts are pre-decisional, deliberative, and subject to potential withholding under FOIA Exemption 5 to protect the Department's decision-making process until a position is final.

I also understand that you feel that LES would protect ICE information sufficiently, however this is not applicable at all components and is not always sufficient to convey the deliberative status of a record or signal distribution limitations. FOUO or the appropriate CUI category helps ensure staff understand the document contains non-public internal government information, that draft material is not prematurely shared outside authorized channels, and that Components and staff handle the information correctly until officially released.

As discussed, markings do not determine releasability under FOIA, however, they do support proper safeguarding consistent with DHS policy by signaling that review and coordination are still underway and the information is not yet cleared for external distribution. Having said that, the DHS Privacy Office retains Department-level equity over privacy compliance frameworks, templates, and guidance. Where a document serves cross-component privacy functions or may later be relied upon as part of Department-wide governance, DHS has a legitimate interest in ensuring consistency, legal sufficiency, and policy alignment before dissemination. Markings reinforce the need for coordination prior to release, particularly where information may be misinterpreted without proper coordination.

The Department has an obligation to safeguard deliberative and sensitive internal work products until formally approved and released through official channels. This protects the integrity of the privacy review process, ensures the Department speaks with one voice, and prevents legal, operational, and reputational risk that may arise from disclosure of incomplete information.

Happy to discuss further.

Regards,

James

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James V.M.L. Holzer

Deputy Chief Privacy Officer
Privacy Office
U.S. Department of Homeland Security
(b)(6),(b)(7)(C) (w)
(c)

From: (b)(6),(b)(7)(C)
Sent: Monday, December 8, 2025 11:46 AM
To: Privacy Points of Contact <(b)(6),(b)(7)(C)
Subject: New language for PTA templates

The request to introduce new language into the PTA template seems to ICE to be problematic.

PRIV is requesting the following text be inserted in all out PTAs (highlighted text is discusses in bullets below):

This is a draft document that is pre-decisional, deliberative, and is designated For Official Use Only (FOUO). It is subject to the deliberative process privilege and attorney client privilege. It is not to be released, shared, or distributed outside of authorized channels without prior consultation and approval from the Department of Homeland Security (DHS) Privacy Office. Unauthorized disclosure may result in administrative, civil, or criminal penalties.

- This text is inaccurate. The document is only pre-decisional and deliberative up to the point it is signed. Once signed, it is an approved document that draws conclusions about the privacy issues raised in the document.
- PTAs, in general, do not use FOUO markings. We can mark them FOUO, but then disclosure would be subject to DHS Directive 11042.2, which limits the scope of FOUO to the "unauthorized disclosure of which could adversely impact a person's privacy or welfare, the conduct of Federal programs, or other programs or operations essential to the national interest [not national security]." All contractors would have to execute NDAs, and we would have to provide training about the directive's requirements to all IGP personnel. ICE does portion mark and mark in the headers when content is LES. The use of LES to preempt disclosure of sensitive information is sufficient for ICE, so FOUO is not needed.
- The deliberative process privilege protects the decision-making processes; it does not protect the outcomes of the deliberative process. In the case of PTAs, all working drafts and communications prior to approval would be protected, but not the final signed product.
- Attorney-client privilege is applicable to communications between lawyers and their clients. PTAs are not legal documents and are not drafted by practicing attorneys. It would seem questionable to apply the privilege to PTAs, and such an assertion would probably not survive litigation. Arguably, the communications between OPLA and OIGP might be considered covered by the privilege except OPLA always states that they don't provide a legal review of PTAs.
- Finally, PRIV earlier this year assigned its authority over PTAs to the Components. ICE PTAs are signed by the Privacy Officer or the AD. Even before the change last February, the Chief Privacy Officer did not approve PTAs—it was always the senior director for compliance (a GS-15) that approved PTAs. If dissemination is to be controlled, at ICE it should be by the ICE Privacy Officer with oversight by the IGP AD.

I would edit the statement to read something like the following, but FOIA and OPLA clearance for the text would probably be necessary:

> This document, unless signed by an authorized ICE representative, is pre-decisional and may be marked "For Official Use Only (FOUO)" due to sensitivity and an articulable concern that disclosure may harm the national interest. It is subject to the deliberative process privilege and may be exempt from

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disclosure under the Freedom of Information Act (FOIA). It is not to be released, shared, or distributed outside of authorized channels without prior consultation and approval from the Immigration and Customs Enforcement (ICE) Privacy Officer or the Assistant Director of the Office for Information Governance and Privacy. Unauthorized disclosure may result in administrative, civil, or criminal penalties.

(b)(6),(b)(7)(C)
Privacy Officer
Office of Information Governance and Privacy
Immigration and Customs Enforcement
(b)(6),(b)(7)(C)

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From: Holzer, James (b)(6),(b)(7)(C)
(b)(6),(b)(7)(C)
Sent: 2/27/2026 5:17:05 PM
To: BACON, REBEKAH S (b)(6) (b)(7)(C)
(b)(6),(b)(7)(C)
CC: Jankowski, Roman (b)(6),(b)(7)(C)
(b)(6),(b)(7)(C) Pavlik-Keenan, Catrina
(b)(6),(b)(7)(C) Taylor, Sandra
(b)(6),(b)(7)(C)
Subject: FW: CBP Questions Fw: Significant Release Notification (Additions to FOIA Library)

Good morning, Rebekah and (b)(6),(b)(7)(C)

I wanted to share the clarification email that I sent to (b)(6),(b)(7)(C) in light of a question from staff in the CBP Privacy and some additional thoughts. First, as stated below, for privacy compliance purposes, once adjudicated at the component level, the PTA is considered final. Second, as I have stated ad nauseum, CUI markings are not dispositive of whether or not a document is releasable under FOIA, they are simply indicators to the FOIA staff that the document **may** have information that needs additional analysis, coordination with other offices, or counsel. This is consistent with Department and OIP policy. Finally, as I have also stated numerous times, employees must ensure that documents are properly marked as CUI so they are handled, shared, safeguarded, and disposed of in accordance with applicable laws, regulations, and DHS policy by all staff who access them. It is my hope that we are able to put this issue to bed in the near future. -JVH

To add some clarification to Catrina's email regarding the FOIA treatment of Privacy Threshold Analyses (PTAs), particularly in light of questions about "final" PTAs from CBP. For privacy compliance purposes, once adjudicated at the component level, the PTA is considered final. However, that compliance status does not alter the separate FOIA analysis required under the statute.
FOIA determinations are content-based and exemption-specific. So, even when a PTA reflects a completed component-level adjudication, portions of the document may legitimately implicate statutory exemptions including but not limited to:

1. Exemption (b)(5) – Deliberative Process / Attorney-Client Privilege
   PTAs often contain embedded legal advice, predecisional recommendations, risk analyses, or internal debates about mitigation strategies. Where the material reflects advisory opinions, legal counsel input, or predecisional analysis that is not itself the final agency position, (b)(5) may apply. Importantly, final agency decisions or adopted rationales generally may not be withheld under deliberative process, and segregability must always be applied.

2. Exemption (b)(7)(E) – Law Enforcement Techniques and Procedures
   Where a PTA describes sensitive screening logic, targeting methodologies, vetting analytics, system inputs, or other operational law enforcement details, disclosure may risk circumvention of the law. In such cases, (b)(7)(E) may properly apply, even if the PTA adjudication itself is complete.

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3. Exemption (b)(4) – Confidential Commercial Information
   PTAs involving vendor systems or pilot programs may reference proprietary architecture, technical capabilities, trade secrets, or other contractor-supplied confidential business information. If the information is commercial in nature and treated as confidential, (b)(4) may apply.

It is important to note that for at least the past 15 years, a PTA's status as "final" for internal adjudication purposes does not automatically make it releasable under FOIA. These principles are reflected in many of the components own FOIA litigation records. For example, in a 2018 ACLU litigation concerning DHS social media programs, a USCIS PTA titled "S&T Social Media Tool Pilot Evaluation" was withheld in full under exemptions including (b)(5) and (b)(7)(E). CBP itself withheld portions of a PTA in the same matter with redactions citing (b)(4), (b)(5), and (b)(7)(E). As I noted previously, the position of the department has been consistent for at least 15 years, but likely even longer. For instance, in a 2007 FOIA request, the CBP ATS PTA was withheld under exemptions (b)(5) and (b)(7)(E).

But, to be clear, we do not withhold documents because they are PTAs. We apply exemptions only where the statutory criteria are met, and we release all reasonably segregable non-exempt material. PTAs are internal compliance instruments and are not statutorily required in the way PIAs are under the E-Government Act. However, their internal governance status does not eliminate the possibility that protected information may be embedded within them. For these reasons, the CPO/CFOIA Officer has directed that **ALL** component privacy offices must consult and get approval from the DHS Privacy Office prior to releasing any PTAs to ensure that the information is appropriately safeguarded and the maximum information allowed under the law is released. Please let me know if you have any other questions.

Regards,

James

James V.M.L. Holzer
Deputy Chief Privacy Officer
Privacy Office
U.S. Department of Homeland Security
(b)(6),(b)(7)(C) (w)
(c)

From: Holzer, James
Sent: Tuesday, February 24, 2026 10:55 AM
To: (b)(6),(b)(7)(C)
Cc: Jankowski, Roman (b)(6),(b)(7)(C) Pavlik-Keenan, Catrina (b)(6),(b)(7)(C) Taylor, Sandra (b)(6),(b)(7)(C)
Subject: RE: CBP Questions Fw: Significant Release Notification (Additions to FOIA Library)

Good morning, (b)(6),(b)(7)(C)

To add some clarification to Catrina's email regarding the FOIA treatment of Privacy Threshold Analyses (PTAs), particularly in light of questions about "final" PTAs from CBP. For privacy compliance purposes, once adjudicated at the component level, the PTA is considered final. However, that compliance status does not alter the separate FOIA analysis required under the statute.

FOIA determinations are content-based and exemption-specific. So, even when a PTA reflects a completed component-level adjudication, portions of the document may legitimately implicate statutory exemptions including but not limited to:

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1. Exemption (b)(5) – Deliberative Process / Attorney-Client Privilege
   PTAs often contain embedded legal advice, predecisional recommendations, risk analyses, or internal debates about mitigation strategies. Where the material reflects advisory opinions, legal counsel input, or predecisional analysis that is not itself the final agency position, (b)(5) may apply. Importantly, final agency decisions or adopted rationales generally may not be withheld under deliberative process, and segregability must always be applied.

2. Exemption (b)(7)(E) – Law Enforcement Techniques and Procedures
   Where a PTA describes sensitive screening logic, targeting methodologies, vetting analytics, system inputs, or other operational law enforcement details, disclosure may risk circumvention of the law. In such cases, (b)(7)(E) may properly apply, even if the PTA adjudication itself is complete.

3. Exemption (b)(4) – Confidential Commercial Information
   PTAs involving vendor systems or pilot programs may reference proprietary architecture, technical capabilities, trade secrets, or other contractor-supplied confidential business information. If the information is commercial in nature and treated as confidential, (b)(4) may apply.

It is important to note that for at least the past 15 years, a PTA's status as "final" for internal adjudication purposes does not automatically make it releasable under FOIA. These principles are reflected in many of the components own FOIA litigation records. For example, in a 2018 ACLU litigation concerning DHS social media programs, a USCIS PTA titled "S&T Social Media Tool Pilot Evaluation" was withheld in full under exemptions including (b)(5) and (b)(7)(E). CBP itself withheld portions of a PTA in the same matter with redactions citing (b)(4), (b)(5), and (b)(7)(E). As I noted previously, the position of the department has been consistent for at least 15 years, but likely even longer. For instance, in a 2007 FOIA request, the CBP ATS PTA was withheld under exemptions (b)(5) and (b)(7)(E).

But, to be clear, we do not withhold documents because they are PTAs. We apply exemptions only where the statutory criteria are met, and we release all reasonably segregable non-exempt material. PTAs are internal compliance instruments and are not statutorily required in the way PIAs are under the E-Government Act. However, their internal governance status does not eliminate the possibility that protected information may be embedded within them. For these reasons, the CPO/CFOIA Officer has directed that **ALL** component privacy offices must consult and get approval from the DHS Privacy Office prior to releasing any PTAs to ensure that the information is appropriately safeguarded and the maximum information allowed under the law is released. Please let me know if you have any other questions.

Thanks.

Regards,

James

James V.M.L. Holzer
Deputy Chief Privacy Officer
Privacy Office
U.S. Department of Homeland Security
(b)(6),(b)(7)(C) (w)
(c)

AMERICAN OVERSIGHT

From: (b)(6),(b)(7)(C)
Sent: Monday, February 23, 2026 5:38 PM
To: Holzer, James (b)(6),(b)(7)(C)
Subject: CBP Questions Fw: Significant Release Notification (Additions to FOIA Library)

Hi James -

What is the best response to (b)(6),(b)(7)(C) at CBP regarding Catrina's emailed directive?

Thank you.

Respectfully,

(b)(6),(b)(7)(C), CIPP/G
Acting Senior Director - Privacy Compliance
Privacy Office
U.S. Department of Homeland Security
Office: (b)(6),(b)(7)(C)
MS Teams: (b)(6),(b)(7)(C)

From: (b)(6),(b)(7)(C)
Sent: Monday, February 23, 2026 5:21:20 PM
To: (b)(6),(b)(7)(C)
Subject: Fw: Significant Release Notification (Additions to FOIA Library)

Hey (b)(6),(b)(7)(C)

Hope you survived the snow. I want to make sure this is some kind of FOIA process concern and isn't a privacy issue and once PTAs are marked complete in PROTECT they are final.

Thanks,

(b)(6),(b)(7)(C)

From: Pavlik-Keenan, Catrina (b)(6),(b)(7)(C)
Sent: Friday, February 20, 2026 11:11 AM
To: (b)(6),(b)(7)(C); FOIA Release Notifications (b)(6),(b)(7)(C); JANKOWSKI, ROMAN (b)(6),(b)(7)(C); Holzer, James (b)(6),(b)(7)(C)
Cc: BACON, REBEKAH S (b)(6),(b)(7)(C)

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

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(b)(6),(b)(7)(C)

Subject: RE: Significant Release Notification (Additions to FOIA Library)

PTAs are NOT supposed to be released at all.

If you have any questions please let us know.

From: (b)(6),(b)(7)(C)
Sent: Friday, February 20, 2026 9:33 AM
To: FOIA Release Notifications (b)(6),(b)(7)(C); Pavlik-Keenan, Catrina (b)(6),(b)(7)(C)
(b)(6),(b)(7)(C)
Cc: BACON, REBEKAH S (b)(6),(b)(7)(C)

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

Subject: Significant Release Notification (Additions to FOIA Library)

Good morning,

On February 23, 2026, U.S. Customs and Border Protection (CBP) FOIA Division will post to the CBP Reading Room the following document: PTA CBP Clearview AI Pilot (15 pages).

This case has been uploaded here.

This PTA has been reviewed for redactions by Border Patrol, Border Patrol Intel - NTC, Privacy Office, and FOIA.

Records will be uploaded to CBP reading room at the following link:
https://www.cbp.gov/document/foia-record/privacy-threshold-analysis-pta

(b)(6),(b)(7)(C)
Government Information Specialist, SME
Privacy, FOIA & EEO
FOIA Division
C: (b)(6),(b)(7)(C)

AMERICAN OVERSIGHT

From: Holzer, James (b)(6),(b)(7)(C)
(b)(6),(b)(7)(C)
Sent: 3/11/2026 11:47:07 AM
To: Jankowski, Roman (b)(6),(b)(7)(C)
(b)(6),(b)(7)(C) Pavlik-Keenan, Catrina
(b)(6),(b)(7)(C) Taylor, Sandra
Subject: Fw: New language for PTA templates

Interesting this was not leaked…

From: Holzer, James (b)(6),(b)(7)(C)
Sent: Monday, December 8, 2025 3:39:14 PM
To: (b)(6),(b)(7)(C) Privacy Points of Contact (b)(6),(b)(7)(C)
Cc: Jankowski, Roman (b)(6),(b)(7)(C)
Subject: RE: New language for PTA templates

(b)(6),(b)(7)(C)

Thank you for the thoughtful conversation. I wanted to share some of the points I raised during our call in writing. I agree that PTAs are not legal instruments and do not routinely fall under attorney-client privilege and this language would only be applied if applicable, but as discussed and clarified during the call it is important to ensure that the FOUO, deliberative-process protections and the marking of draft are applied to documents to prevent premature disclosure. As discussed, the deliberative process privilege protects pre-decisional analysis rather than the final product, however, the language in the proposed marking reflects that PTAs in draft form include internal recommendations, analysis, and unresolved issues. This is precisely the types of materials that, if disclosed prematurely, could hinder internal discussions or misrepresent Department positions before decisions are finalized. Marking the document accordingly is not about shielding the final record from review, but rather acknowledging that drafts are pre-decisional, deliberative, and subject to potential withholding under FOIA Exemption 5 to protect the Department's decision-making process until a position is final.

I also understand that you feel that LES would protect ICE information sufficiently, however this is not applicable at all components and is not always sufficient to convey the deliberative status of a record or signal distribution limitations. FOUO or the appropriate CUI category helps ensure staff understand the document contains non-public internal government information, that draft material is not prematurely shared outside authorized channels, and that Components and staff handle the information correctly until officially released.

As discussed, markings do not determine releasability under FOIA, however, they do support proper safeguarding consistent with DHS policy by signaling that review and coordination are still underway and the information is not yet cleared for external distribution. Having said that, the DHS Privacy Office retains Department-level equity over privacy compliance frameworks, templates, and guidance. Where a document serves cross-component privacy functions or may later be relied upon as part of Department-wide governance, DHS has a legitimate interest in ensuring consistency, legal sufficiency, and policy alignment before dissemination. Markings reinforce the need for coordination prior to release, particularly where information may be misinterpreted without proper coordination.

The Department has an obligation to safeguard deliberative and sensitive internal work products until formally approved and released through official channels. This protects the integrity of the privacy review process,

AMERICAN OVERSIGHT

ensures the Department speaks with one voice, and prevents legal, operational, and reputational risk that may arise from disclosure of incomplete information.

Happy to discuss further.

Regards,

James

James V.M.L. Holzer
Deputy Chief Privacy Officer
Privacy Office
U.S. Department of Homeland Security
(b)(6),(b)(7)(C) (w)
(c)

From: (b)(6),(b)(7)(C)
Sent: Monday, December 8, 2025 11:46 AM
To: Privacy Points of Contact (b)(6),(b)(7)(C)
Subject: New language for PTA templates

The request to introduce new language into the PTA template seems to ICE to be problematic.

PRIV is requesting the following text be inserted in all out PTAs (highlighted text is discusses in bullets below):

This is a draft document that is pre-decisional, deliberative, and is designated For Official Use Only (FOUO). It is subject to the deliberative process privilege and attorney client privilege. It is not to be released, shared, or distributed outside of authorized channels without prior consultation and approval from the Department of Homeland Security (DHS) Privacy Office. Unauthorized disclosure may result in administrative, civil, or criminal penalties.

- This text is inaccurate. The document is only pre-decisional and deliberative up to the point it is signed. Once signed, it is an approved document that draws conclusions about the privacy issues raised in the document.
- PTAs, in general, do not use FOUO markings. We can mark them FOUO, but then disclosure would be subject to DHS Directive 11042.2, which limits the scope of FOUO to the "unauthorized disclosure of which could adversely impact a person's privacy or welfare, the conduct of Federal programs, or other programs or operations essential to the national interest [not national security]." All contractors would have to execute NDAs, and we would have to provide training about the directive's requirements to all IGP personnel. ICE does portion mark and mark in the headers when content is LES. The use of LES to preempt disclosure of sensitive information is sufficient for ICE, so FOUO is not needed.
- The deliberative process privilege protects the decision-making processes; it does not protect the outcomes of the deliberative process. In the case of PTAs, all working drafts and communications prior to approval would be protected, but not the final signed product.
- Attorney-client privilege is applicable to communications between lawyers and their clients. PTAs are not legal documents and are not drafted by practicing attorneys. It would seem questionable to apply the privilege to PTAs, and such an assertion would probably not survive litigation. Arguably, the communications between OPLA and OIGP might be considered covered by the privilege except OPLA always states that they don't provide a legal review of PTAs.
- Finally, PRIV earlier this year assigned its authority over PTAs to the Components. ICE PTAs are signed by the Privacy Officer or the AD. Even before the change last February, the Chief Privacy Officer did not approve PTAs—it was always the senior director for compliance (a GS-15) that

AMERICAN OVERSIGHT

approved PTAs. If dissemination is to be controlled, at ICE it should be by the ICE Privacy Officer with oversight by the IGP AD.

I would edit the statement to read something like the following, but FOIA and OPLA clearance for the text would probably be necessary:

> This document, unless signed by an authorized ICE representative, is pre-decisional and may be marked "For Official Use Only (FOUO)" due to sensitivity and an articulable concern that disclosure may harm the national interest. It is subject to the deliberative process privilege and may be exempt from disclosure under the Freedom of Information Act (FOIA). It is not to be released, shared, or distributed outside of authorized channels without prior consultation and approval from the Immigration and Customs Enforcement (ICE) Privacy Officer or the Assistant Director of the Office for Information Governance and Privacy. Unauthorized disclosure may result in administrative, civil, or criminal penalties.

(b)(6),(b)(7)(C)
Privacy Officer
Office of Information Governance and Privacy
Immigration and Customs Enforcement
(b)(6),(b)(7)(C)
(b)(6),(b)(7)(C)

AMERICAN OVERSIGHT

From: Pavlik-Keenan, Catrina (b)(6),(b)(7)(C)
(b)(6),(b)(7)(C)
Sent: 2/20/2026 7:47:18 PM
To: (b)(6),(b)(7)(C) (CBP) (b)(6),(b)(7)(C)
(b)(6),(b)(7)(C)
CC: Jankowski, Roman (b)(6),(b)(7)(C)
(b)(6),(b)(7)(C)
(b)(6),(b)(7)(C) Holzer, James
Subject: RE: Significant Release Notification (Additions to FOIA Library)

(b)(6),(b)(7)(C): Please see information provide by DCPO Holzer below related to this PTA.

Regards,

Catrina M. Pavlik-Keenan
Deputy Chief Freedom of Information Act Officer
Department of Homeland Security
(b)(6),(b)(7)(C) (c)
(b)(6),(b)(7)(C)

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Want to learn more about DHS privacy and FOIA Operations? Visit http://www.dhs.gov/privacy

WARNING: This document is ~~FOR OFFICIAL USE ONLY (FOUO)~~, it contains information that may be exempt from public release under the Freedom of Information Act (5 U.S.C. 552). It is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO information and is not to be released to the public or other personnel who do not have a valid "need-to-know" without prior approval of an authorized DHS official.

From: Holzer, James (b)(6),(b)(7)(C)
Sent: Friday, February 20, 2026 2:40 PM
To: Pavlik-Keenan, Catrina (b)(6),(b)(7)(C)

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Cc: Jankowski, Roman (b)(6),(b)(7)(C); (b)(6),(b)(7)(C)
Subject: FW: Significant Release Notification (Additions to FOIA Library)

Catrina,

In December, Component Privacy Officers were informed that all privacy compliance documentation (including PTAs, PIAs, MOAs, etc.) developed at the component level as part of the department's privacy compliance program must undergo consultation and approval by the DHS Privacy Office prior to release. It does not appear that this PTA went thru the consultation process. Thanks.

Regards,

James

James V.M.L. Holzer
Deputy Chief Privacy Officer
Privacy Office
U.S. Department of Homeland Security
(b)(6),(b)(7)(C) (w)
(c)

From: Pavlik-Keenan, Catrina (b)(6),(b)(7)(C)
Sent: Friday, February 20, 2026 11:12 AM
To: (b)(6),(b)(7)(C) FOIA Release Notifications
(b)(6),(b)(7)(C)
Cc: BACON, REBEKAH S (b)(6) (b)(7)(C)
(b)(6) (b)(7)(C)
Subject: RE: Significant Release Notification (Additions to FOIA Library)

PTAs are NOT supposed to be released at all.

If you have any questions please let us know.

From: (b)(6),(b)(7)(C)
Sent: Friday, February 20, 2026 9:33 AM
To: FOIA Release Notifications (b)(6),(b)(7)(C) Pavlik-Keenan, Catrina (b)(6),(b)(7)(C)
(b)(6),(b)(7)(C)
Cc: BACON, REBEKAH S (b)(6),(b)(7)(C)
(b)(6) (b)(7)(C)

AMERICAN OVERSIGHT

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

Subject: Significant Release Notification (Additions to FOIA Library)

Good morning,

On February 23, 2026, U.S. Customs and Border Protection (CBP) FOIA Division will post to the CBP Reading Room the following document: PTA CBP Clearview AI Pilot (15 pages).

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This PTA has been reviewed for redactions by Border Patrol, Border Patrol Intel - NTC, Privacy Office, and FOIA.

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https://www.cbp.gov/document/foia-record/privacy-threshold-analysis-pta

(b)(6),(b)(7)(C)
Government Information Specialist, SME
Privacy, FOIA & EEO
FOIA Division
C: (b)(6),(b)(7)(C)

AMERICAN OVERSIGHT

From: Pavlik-Keenan, Catrina (b)(6),(b)(7)(C)
(b)(6),(b)(7)(C)

Sent: 2/20/2026 4:11:36 PM

To: (b)(6),(b)(7)(C) (CBP) (b)(6),(b)(7)(C)
(b)(6),(b)(7)(C)
Jankowski, Roman (b)(6),(b)(7)(C)
(b)(6),(b)(7)(C) Holzer, James
(b)(6),(b)(7)(C)
(b)(6),(b)(7)(C)

CC: BACON, REBEKAH S (b)(6) (b)(7)(C)
(b)(6),(b)(7)(C)

Subject: RE: Significant Release Notification (Additions to FOIA Library)

PTAs are NOT supposed to be released at all.

If you have any questions please let us know.

From: (b)(6),(b)(7)(C)
Sent: Friday, February 20, 2026 9:33 AM
To: FOIA Release Notifications (b)(6),(b)(7)(C) Pavlik-Keenan, Catrina (b)(6),(b)(7)(C)
(b)(6),(b)(7)(C)

AMERICAN OVERSIGHT

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

(b)(6),(b)(7)(C)

Subject: Significant Release Notification (Additions to FOIA Library)

Good morning,

On February 23, 2026, U.S. Customs and Border Protection (CBP) FOIA Division will post to the CBP Reading Room the following document: PTA CBP Clearview AI Pilot (15 pages).

This case has been uploaded here.

This PTA has been reviewed for redactions by Border Patrol, Border Patrol Intel - NTC, Privacy Office, and FOIA.

Records will be uploaded to CBP reading room at the following link:
https://www.cbp.gov/document/foia-record/privacy-threshold-analysis-pta

(b)(6),(b)(7)(C)
Government Information Specialist, SME
Privacy, FOIA & EEO
FOIA Division
C: (b)(6),(b)(7)(C)

AMERICAN OVERSIGHT

From: Pavlik-Keenan, Catrina (b)(6),(b)(7)(C)
(b)(6),(b)(7)(C)
Sent: 4/29/2026 7:38:46 PM
To: (b)(6),(b)(7)(C)
CC: (b)(6),(b)(7)(C)
(b)(6),(b)(7)(C) Holzer, James
(b)(6),(b)(7)(C)
Subject: Re: [ACTION] FOIA Litigation Robert F. Kennedy (25-cv-06541) DCFO Review

Thank you.

(b)(6),(b)(7)(C) this needs to be in FOIA process for clearing PTAs and PIAs.

Respectfully,
Catrina Pavlik-Keenan
Deputy Chief,
Freedom of Information Act Officer
(b)(6),(b)(7)(C)
Teams: (b)(6),(b)(7)(C)

From: (b)(6),(b)(7)(C)
Sent: Wednesday, April 29, 2026 3:37:10 PM
To: Pavlik-Keenan, Catrina (b)(6),(b)(7)(C)
Cc: (b)(6),(b)(7)(C)
Holzer, James (b)(6),(b)(7)(C); (b)(6),(b)(7)(C)
Subject: RE: [ACTION] FOIA Litigation Robert F. Kennedy (25-cv-06541) DCFO Review

Catrina,

I received an mail from (b)(6),(b)(7)(C) and she clears the PTA markings

with Grace,

(b)(6),(b)(7)(C)
Director, FOIA Litigation and Appeals
Privacy Office
U.S. Department of Homeland Security

Freedom 250

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From: Pavlik-Keenan, Catrina (b)(6),(b)(7)(C)
Sent: Wednesday, April 29, 2026 2:05 PM

To: (b)(6),(b)(7)(C) Holzer, James (b)(6),(b)(7)(C) ; (b)(6),(b)(7)(C) (b)(6),(b)(7)(C)
Cc: (b)(6),(b)(7)(C)
Subject: Re: [ACTION] FOIA Litigation Robert F. Kennedy (25-cv-06541) DCFO Review

Has (b)(6),(b)(7)(C) reviewed this and cleared this PTA for release. If not please do this.

Respectfully,
Catrina Pavlik-Keenan
Deputy Chief,
Freedom of Information Act Officer
(b)(6),(b)(7)(C)
Teams: (b)(6),(b)(7)(C)

From: (b)(6),(b)(7)(C)
Sent: Wednesday, April 29, 2026 1:56:19 PM
To: Pavlik-Keenan, Catrina (b)(6),(b)(7)(C)
Cc: (b)(6),(b)(7)(C)
Subject: [ACTION] FOIA Litigation Robert F. Kennedy (25-cv-06541) DCFO Review

Hi Catrina,

Analyst: (b)(6),(b)(7)(C)
OGC Attorney: (b)(6),(b)(7)(C) and (b)(6),(b)(7)(C)
Review Complete by: **Thursday, April 30, 2026 noon**
Court Ordered: **Yes- April 30, 2026**
Additional notes: Flagged for DCFO Review

Consultations or Reviews

- OGC and Senior leadership in OGC
- FEMA
- Director, FOIA Litigation and Appeals, (b)(6),(b)(7)(C)
- Senior Director, FOIA Litigation and Policy – (b)(6),(b)(7)(C)

Please see attached for DCFO review. The plaintiff is seeking records relating to Case Management Pilot Program also referred to as the Alternative to Detention Grant Program, to include communications with DHS DOGE employees.

In the case filed August 8, 2025 (25-cv-06541), filed in the Southern District of New York, the plaintiff, **Robert F. Kennedy Human Rights**, is seeking any records created since January 1, 2021, relating to or concerning the "Case Management Pilot Program," also referred to as the "Alternatives to Detention Grant Program," including: 1) Any presentation, report, or other materials on the implementation and/or evaluation of CMPP provided by OCRCL to members of Congress, Congressional committees, and/or their staff. 2) Any evaluation, review, study or other analysis of CMPP provided to CRCL, including by or on behalf of the Manhattan Strategy Group or any other external evaluator. 3) Any and all CMPP program data, including CMPP performance metrics disaggregated to the maximum extent possible by program site and program phase (CMPP 1, CMPP 2, etc.), including but not limited to: • Number of individuals enrolled in CMPP and demographic breakdown, including: • Member of family unit (caretaker(s)/minor child) (yes/no); • Size of family unit; • Gender; • Age; • Race and nationality; and • Preferred language. • Number of CMPP participants who were offered case management services, including how many participants received or declined services. • Number of participants who were offered and/or requested the following CMPP services, including the breakdown of how many participants received or declined services: • Mental health services; • Human trafficking screening; • Legal orientation; • Cultural orientation; or • Departure information, planning and/or reintegration services (for those departing the United States voluntarily or because of an order of removal). • Number of CMPP participants who identified each of the following services as a priority, and the number who were: • Provided legal screening or provided or referred for legal services; or • Connected to other participant identified social services, including • housing assistance, • childcare, •

AMERICAN OVERSIGHT

transportation, • school enrollment, • health care, • translation/interpretation, • job training, and • language classes. • Number of CMPP participants without legal counsel at time of CMPP enrollment, and number that secured legal counsel (whether limited scope or full scope representation) during the program period of performance. • Number of CMPP participants who received pro se assistance through CMPP. • Length of time to first immigration hearing date, if applicable. • Length of time to immigration case resolution, if applicable. • Listing of immigration court jurisdictions and Enforcement & Removal Operations (ERO) field offices at which CMPP participants were required to report to or appear. • Breakdown and percentage of forms of immigration relief or benefits for which CMPP participants applied. • Breakdown and percentage of forms of immigration relief granted, such as asylum, CAT, etc. • Number of CMPP participants who attended scheduled Executive Office of Immigration Review (EOIR) immigration court hearings, as applicable. • Include breakdown of those with legal representation and those pro se. • Number of CMPP participants identified as survivors of human trafficking and/or gender-based violence, and of those identified, number who received assistance. • Number of CMPP participants (1) with a final order of removal during the time they are enrolled in CMPP; and (2) who complied with the order. 4) Any and all relevant data on the same metrics (as detailed in No. 3 above) that CRCL collected for individuals who were eligible for but randomized out of CMPP enrollment during its trial phase, 5) Any and all records relating to or concerning the cancellation of the CMPP. 6) Any and all communications to and from DHS and CRCL personnel relating to or concerning allegations of human trafficking, money laundering, corruption, or any other illegal activity as it relates to the CMPP. 7) Any and all communications to and from DOGE employee (b)(6) (b)(6) and DHS Acting General Counsel Joseph Mazzara relating to or concerning the CMPP and 8) Any and all communications relating to or concerning the meeting between DHS and DOGE staff on February 10, 2025 (**2025-HQFO-03663)**

The enclosed documents can be found on SharePoint.

- Original Complaint
- Initial Request
- Translucent Copy of the records [121 pages]
- Draft Response letter.

with Grace,

(b)(6),(b)(7)(C)
Director, FOIA Litigation and Appeals
Privacy Office
U.S. Department of Homeland Security

Freedom 250

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From: Pavlik-Keenan, Catrina (b)(6),(b)(7)(C)
(b)(6),(b)(7)(C)
Sent: 3/12/2026 2:11:00 PM
To: Holzer, James (b)(6),(b)(7)(C)
(b)(6),(b)(7)(C) Jankowski, Roman
Subject: FW: FOIA request for NPPD PTAs

I wanted to share this with you all again as FYI

From: PAVLIK-KEENAN, CATRINA
Sent: Friday, November 5, 2021 10:55 AM
To: Holzer, James (b)(6),(b)(7)(C)
Subject: RE: FOIA request for NPPD PTAs

Thanks that is what I thought that we would release in part.

Did you find the PTA that she is talking about?

From: Holzer, James (b)(6),(b)(7)(C)
Sent: Friday, November 5, 2021 10:52 AM
To: PAVLIK-KEENAN, CATRINA (b)(6),(b)(7)(C)
Subject: FW: FOIA request for NPPD PTAs

Catrina,
Please see below regarding PTAs'.

Regards,

James

James V.M.L. Holzer, DM, CIPP/G
Deputy Chief Privacy Officer
U.S. Department of Homeland Security

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From: (b)(6),(b)(7)(C)
Sent: Friday, November 5, 2021 9:43 AM
To: (b)(6),(b)(7)(C)
Cc: (b)(6),(b)(7)(C) Holzer, James (b)(6),(b)(7)(C)
Subject: FW: FOIA request for NPPD PTAs

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(b)(6),(b)(7)(C)

I found this past advice below I provided to our previous Director for Compliance.

I will do a quick search and see whether there has been any recent caselaw and let you know if anything comes up.

Also attached another email re CBP's PTAs being released as part of FOIA litigation. (b)(6),(b)(7)(C) would have good historical knowledge of what has been released/redacted in the past.

Best,
(b)(6),(b)(7)(C)

(b)(6),(b)(7)(C)
Supervisory Attorney-Advisor for Privacy and Information Law,
Office of the General Counsel (OGC), Legal Counsel Division (LCD)
U.S. Department of Homeland Security (DHS)
(b)(6),(b)(7)(C) (Mobile)

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From: (b)(6),(b)(7)(C)
Sent: Monday, July 23, 2018 4:13 PM
To: (b)(6),(b)(7)(C)
Subject: FOIA request for NPPD PTAs

(b)(6),(b)(7)(C)

I spoke to DOJ OIP and OPCL this afternoon on the FOIA request for NPPD's PTAs.

It appears the request for DOJ IPAs have only come up twice before, both involving EPIC (EPIC v. DEA, 208 F.Supp.3d 108 (D.D.C. 2016)) and EPIC v. FBI, No. 14-01311, 2017 WL 680370 (D.D.C. Feb. 21, 2017) (https://www.justice.gov/oip/elec-privacy-info-ctr-v-fbi-no-14-01311-2017-wl-680370-ddc-feb-21-2017-mehta-j). However, in neither case did the Court make an definitive statement/decision whether initial privacy assessments could be withheld under Exemption 5.

(b)(5)

(b)(5)

(b)(6),(b)(7)(C) I believe the other recommendations I provided still stand. I am happy to discuss this in more detail, or review another version of redactions you plan to make.

Best,
(b)(6),(b)(7)(C)

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From: (b)(6),(b)(7)(C)
Sent: Thursday, July 19, 2018 4:24 PM
To: (b)(6),(b)(7)(C)
Subject: RE: Question

Ok, thanks. I talked to (b)(6),(b)(7)(C) and she was going to see what we have done in the past.

(b)(6),(b)(7)(C)

From: (b)(6),(b)(7)(C)
Sent: Thursday, July 19, 2018 4:23 PM
To: (b)(6),(b)(7)(C)
Subject: FW: Question

FYI – I will be talking with DOJ OIP soon but there apparently exists a case whereby DOJ released its final determination letter (more or less just saying whether a PIA and/or SORN is required) but withheld the underlying IPAs. Will follow up soon on advice.

From: (b)(6) @usdoj.gov>
Sent: Thursday, July 19, 2018 3:37 PM
To: (b)(6),(b)(7)(C)
Subject: RE: Question

(b)(6),(b)(7)(C)

See EPIC v. DEA, 208 F.Supp.3d 108 (D.D.C. 2016):

> The **DEA** told EPIC that IPAs and PTAs were essentially "working drafts" and that the final products from discussions with the OPCL were the determination letters themselves, which stated whether a final **privacy** assessment was needed before the system could be implemented. Id. EPIC chose to accept the OPCL determination letters in lieu of the PTAs and IPAs.

From: (b)(6),(b)(7)(C)
Sent: Wednesday, July 18, 2018 9:31 AM
To: (b)(6) @jmd.usdoj.gov>
Subject: Question

(b)(6)

Quick question – has DOJ or OPCL ever received a FOIA request for an IPA, and if so, how did you process it?

We received a FOIA request for a DHS PTA (b)(5)

(b)(5)

Thoughts?

(b)(5)

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Thanks,
(b)(6),(b)(7)(C)

(b)(6),(b)(7)(C)
Attorney-Advisor (Privacy)
Legal Counsel Division,
Office of the General Counsel
U.S. Department of Homeland Security
(b)(6),(b)(7)(C) (Office)
(Mobile)
E-mail: (b)(6),(b)(7)(C)

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From: Pavlik-Keenan, Catrina (b)(6),(b)(7)(C)
(b)(6),(b)(7)(C)
Sent: 4/30/2026 2:33:47 PM
To: (b)(6),(b)(7)(C) Holzer, James
CC: (b)(6),(b)(7)(C)
Subject: RE: [ACTION] FOIA Litigation Robert F. Kennedy (25-cv-06541) DCFO Review

Okay for future information and to be included in FOIA process- all PIAs and PTAs per Roman's instruction that was issued PIAs and PTAs must be cleared by the Privacy staff this includes components.

From: (b)(6),(b)(7)(C)
Sent: Thursday, April 30, 2026 8:54 AM
To: Holzer, James (b)(6),(b)(7)(C) Pavlik-Keenan, Catrina (b)(6),(b)(7)(C)
(b)(6),(b)(7)(C)
Cc: (b)(6),(b)(7)(C)
(b)(6),(b)(7)(C)
Subject: Re: [ACTION] FOIA Litigation Robert F. Kennedy (25-cv-06541) DCFO Review

And I reviewed the PTA for (b)(6),(b)(7)(C) yesterday afternoon.

Thanks much for looping me in Catrina.

Respectfully,

(b)(6),(b)(7)(C)
Acting Senior Director - Privacy Compliance
Privacy Office
U.S. Department of Homeland Security
Office: (b)(6),(b)(7)(C)
MS Teams: (b)(6),(b)(7)(C)

From: Holzer, James (b)(6),(b)(7)(C)
Sent: Thursday, April 30, 2026 8:40:05 AM
To: Pavlik-Keenan, Catrina (b)(6),(b)(7)(C)
(b)(6),(b)(7)(C)
Cc: (b)(6),(b)(7)(C)
(b)(6),(b)(7)(C)
Subject: RE: [ACTION] FOIA Litigation Robert F. Kennedy (25-cv-06541) DCFO Review

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Thanks for flagging Catrina. Roman and I reviewed yesterday with (b)(6),(b)(7)(C) and (b)(6),(b)(7)(C)

Regards,

James

James V.M.L. Holzer
Deputy Chief Privacy Officer
Privacy Office
U.S. Department of Homeland Security
(b)(6),(b)(7)(C) (w)
(c)

From: Pavlik-Keenan, Catrina (b)(6),(b)(7)(C)
Sent: Wednesday, April 29, 2026 2:05 PM
To: (b)(6),(b)(7)(C); Holzer, James (b)(6),(b)(7)(C); (b)(6),(b)(7)(C)
(b)(6),(b)(7)(C)
Cc: (b)(6),(b)(7)(C)
Subject: Re: [ACTION] FOIA Litigation Robert F. Kennedy (25-cv-06541) DCFO Review

Has (b)(6),(b)(7)(C) reviewed this and cleared this PTA for release. If not please do this.

Respectfully,
Catrina Pavlik-Keenan
Deputy Chief,
Freedom of Information Act Officer
(b)(6),(b)(7)(C)
Teams: (b)(6),(b)(7)(C)

From: (b)(6),(b)(7)(C)
Sent: Wednesday, April 29, 2026 1:56:19 PM
To: Pavlik-Keenan, Catrina (b)(6),(b)(7)(C)
Cc: (b)(6),(b)(7)(C)
Subject: [ACTION] FOIA Litigation Robert F. Kennedy (25-cv-06541) DCFO Review

Hi Catrina,

Analyst: (b)(6),(b)(7)(C)
OGC Attorney: (b)(6),(b)(7)(C) and (b)(6),(b)(7)(C)
Review Complete by: **Thursday, April 30, 2026 noon**
Court Ordered: **Yes- April 30, 2026**
Additional notes: Flagged for DCFO Review

Consultations or Reviews

- OGC and Senior leadership in OGC
- FEMA
- Director, FOIA Litigation and Appeals, (b)(6),(b)(7)(C)
- Senior Director, FOIA Litigation and Policy – (b)(6),(b)(7)(C)

Please see attached for DCFO review. The plaintiff is seeking records relating to Case Management Pilot Program also referred to as the Alternative to Detention Grant Program, to include communications with DHS DOGE employees.

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In the case filed August 8, 2025 (25-cv-06541), filed in the Southern District of New York, the plaintiff, **Robert F. Kennedy Human Rights**, is seeking any records created since January 1, 2021, relating to or concerning the "Case Management Pilot Program," also referred to as the "Alternatives to Detention Grant Program," including: 1) Any presentation, report, or other materials on the implementation and/or evaluation of CMPP provided by OCRCL to members of Congress, Congressional committees, and/or their staff. 2) Any evaluation, review, study or other analysis of CMPP provided to CRCL, including by or on behalf of the Manhattan Strategy Group or any other external evaluator. 3) Any and all CMPP program data, including CMPP performance metrics disaggregated to the maximum extent possible by program site and program phase (CMPP 1, CMPP 2, etc.), including but not limited to: • Number of individuals enrolled in CMPP and demographic breakdown, including: • Member of family unit (caretaker(s)/minor child) (yes/no); • Size of family unit; • Gender; • Age; • Race and nationality; and • Preferred language. • Number of CMPP participants who were offered case management services, including how many participants received or declined services. • Number of participants who were offered and/or requested the following CMPP services, including the breakdown of how many participants received or declined services: • Mental health services; • Human trafficking screening; • Legal orientation; • Cultural orientation; or • Departure information, planning and/or reintegration services (for those departing the United States voluntarily or because of an order of removal). • Number of CMPP participants who identified each of the following services as a priority, and the number who were: • Provided legal screening or provided or referred for legal services; or • Connected to other participant identified social services, including • housing assistance, • childcare, • transportation, • school enrollment, • health care, • translation/interpretation, • job training, and • language classes. • Number of CMPP participants without legal counsel at time of CMPP enrollment, and number that secured legal counsel (whether limited scope or full scope representation) during the program period of performance. • Number of CMPP participants who received pro se assistance through CMPP. • Length of time to first immigration hearing date, if applicable. • Length of time to immigration case resolution, if applicable. • Listing of immigration court jurisdictions and Enforcement & Removal Operations (ERO) field offices at which CMPP participants were required to report to or appear. • Breakdown and percentage of forms of immigration relief or benefits for which CMPP participants applied. • Breakdown and percentage of forms of immigration relief granted, such as asylum, CAT, etc. • Number of CMPP participants who attended scheduled Executive Office of Immigration Review (EOIR) immigration court hearings, as applicable. • Include breakdown of those with legal representation and those pro se. • Number of CMPP participants identified as survivors of human trafficking and/or gender-based violence, and of those identified, number who received assistance. • Number of CMPP participants (1) with a final order of removal during the time they are enrolled in CMPP; and (2) who complied with the order. 4) Any and all relevant data on the same metrics (as detailed in No. 3 above) that CRCL collected for individuals who were eligible for but randomized out of CMPP enrollment during its trial phase, 5) Any and all records relating to or concerning the cancellation of the CMPP. 6) Any and all communications to and from DHS and CRCL personnel relating to or concerning allegations of human trafficking, money laundering, corruption, or any other illegal activity as it relates to the CMPP. 7) Any and all communications to and from DOGE employee (b)(6) (b)(6) and DHS Acting General Counsel Joseph Mazzara relating to or concerning the CMPP and 8) Any and all communications relating to or concerning the meeting between DHS and DOGE staff on February 10, 2025 (**2025-HQFO-03663)**

The enclosed documents can be found on SharePoint.

- Original Complaint
- Initial Request
- Translucent Copy of the records [121 pages]
- Draft Response letter.

with Grace,

(b)(6),(b)(7)(C)
Director, FOIA Litigation and Appeals
Privacy Office
U.S. Department of Homeland Security

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Freedom 250

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March 17, 2025

MEMORANDUM FOR THE RECORD

From: James V.M.L. Holzer
Deputy Chief Privacy Officer

JAMES V HOLZER

Digitally signed by JAMES V HOLZER
Date: 2026.03.17 14:44:29 -04'00'

Subject: Administrative Record of Events, Legal Context, and Clarifications Regarding Privacy Threshold Assessment Handling, Markings, and FOIA Treatment

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Purpose

This Memorandum for the Record memorializes the sequence of events, deliberations, and Department-level clarifications concerning the handling, marking, and disclosure posture of Privacy Threshold Assessments (PTAs) following external reporting on a document associated with facial recognition authorities. The purpose of this memorandum is to ensure the Department maintains a precise administrative record reflecting the factual chronology, applicable standards, internal policy alignment efforts, and clarifications provided to component privacy offices, including U.S. Customs and Border Protection (CBP) and U.S. Immigration and Customs Enforcement (ICE).

Background

On or about November 1, 2025, Department privacy leadership was asked to verify the authenticity and provenance of a document referenced in a media article concerning facial recognition authorities. The document appeared redacted but lacked standard administrative markings identifying its component origin or status within the privacy compliance process. The absence of markings contributed to uncertainty regarding whether the document represented Department policy, a component compliance assessment product, or an improperly disclosed internal record.

Subsequent inquiry established that the document had been released through official FOIA processes by CBP on October 30, 2025, and had also been transmitted unredacted to a Congressional office. The lack of standardized markings was therefore a procedural issue rather than evidence of unauthorized disclosure. Nonetheless, the situation highlighted the potential for misunderstanding regarding the nature and status of PTA products and prompted Department-wide efforts to clarify marking practices and reinforce enterprise privacy governance consistency.

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Chronology of Events

Following the initial inquiry on November 1, 2025, Department privacy leadership undertook efforts to confirm the source and release mechanism of the document referenced in external reporting. Communication among component privacy officials and Department leadership confirmed that CBP had processed and released the document through established FOIA channels.

Recognizing the confusion created by the absence of consistent administrative caveats, the Deputy Chief Privacy Officer consulted with the from the Office of General Counsel on November 11 and November 19, 2025, regarding the appropriate marking of Privacy Threshold Assessments. The concern underlying this inquiry was not to alter FOIA disclosure obligations, but rather to ensure that compliance documents were appropriately safeguarded to prevent premature or informal dissemination outside official processes.

On December 3, 2025, the DHS Privacy Office issued updated PTA templates incorporating new updated marking language and disseminated them through established governance channels. The guidance emphasized that standardized caveats were intended to promote clarity regarding the status of draft compliance analyses and ensure proper handling across components.

On the same date, the CBP Privacy Officer sought legal clarification concerning whether adjudicated PTAs could properly be described as draft or deliberative once signed at the component level. This inquiry reflected the broader shift in February 2025 Department guidance delegating PTA adjudication authority to components while retaining Department-wide oversight responsibilities.

In response, Department privacy leadership clarified verbally and in writing that, for privacy compliance purposes, a PTA becomes final once adjudicated at the component level. However, this internal compliance status does not govern the separate statutory analysis required under the FOIA. It was further clarified that Controlled Unclassified Information markings do not determine releasability, but instead serve as indicators to FOIA professionals that additional review, coordination, or legal consultation may be required.

Subsequent discussions with ICE privacy leadership on December 8, 2025, reflected similar concerns regarding the application of deliberative and FOUO caveats. ICE officials expressed the view that PTAs are not legal instruments and that final signed products should not be characterized as deliberative. Department privacy leadership acknowledged this distinction while reiterating that PTAs, even if final for privacy compliance purposes, routinely contain internal recommendations, risk analyses, and unresolved issues that fall squarely within the deliberative process privilege until formal operational decisions are finalized.

In follow-up written correspondence memorializing these discussions, Department privacy leadership emphasized that the purpose of draft markings is not to shield final records from disclosure, but to preserve the integrity of internal decision-making processes and prevent

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misinterpretation of incomplete analyses. It was further noted that law enforcement sensitivity markings such as LES, while useful in certain contexts, are not uniformly applicable across all components and do not substitute for enterprise-wide governance signals regarding deliberative status.

Clarifications Provided to CBP

In February 2026, following notification of a proactive FOIA reading room release involving a PTA related to a pilot program, Department privacy leadership provided detailed written clarification to CBP officials. The clarification reiterated that a PTA's finality for privacy compliance purposes does not predetermine its disclosure status under the FOIA.

The Department explained that FOIA determinations are inherently content-based and may implicate multiple statutory exemptions. In particular, PTAs may contain deliberative recommendations or legal analysis potentially subject to Exemption (b)(5), operational law enforcement details subject to Exemption (b)(7)(E), or proprietary vendor information protected under Exemption (b)(4).

It was further clarified that Department practice over at least the past fifteen years has consistently treated the completion of internal compliance review as distinct from disclosure determinations under the FOIA. For example, the Department has disclosed PTAs in past FOIA litigations where those PTAs have been redacted based on various FOIA exemptions, as noted above. These cases can be cited as evidence of longstanding precedent.

Clarifications Provided to ICE

During discussions with ICE privacy leadership, Department officials acknowledged that attorney-client privilege does not generally attach to PTAs as compliance instruments. However, it was emphasized that draft analyses may incorporate legal advice or internal recommendations that fall within deliberative process protections.

Department leadership further clarified that enterprise privacy governance responsibilities require consistent marking practices where documents serve cross-component functions or may inform Department-wide policy alignment. The purpose of standardized caveats is therefore administrative coherence and risk mitigation rather than restriction of lawful disclosure.

ICE concerns regarding the scope of FOUO designations were addressed by explaining that markings function as safeguarding signals rather than dispositive legal determinations. Components retain authority over internal distribution controls, but Department-level equities arise where records influence enterprise privacy frameworks.

Analysis

The Department's actions are consistent with established administrative law principles governing internal deliberative processes. Privacy Threshold Assessments constitute compliance review

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tools rather than binding policy instruments or legal determinations. As such, draft iterations fall within recognized protections designed to preserve candid internal analysis and prevent premature external interpretation.

FOIA jurisprudence distinguishes between final agency action and underlying deliberative materials. Completion of an internal compliance review does not negate the potential applicability of statutory exemptions, nor does the presence or absence of administrative markings determine disclosure outcomes.

The inclusion of caveat language referencing potential penalties reflects existing statutory frameworks governing unauthorized disclosure of protected information and is consistent with standard federal document handling practices.

Precedent

The Department's treatment of Privacy Threshold Assessments and comparable internal compliance instruments reflects a long-standing institutional practice grounded in administrative law principles that predates the events described in this memorandum. The distinction between internal compliance finality and statutory disclosure determinations under the Freedom of Information Act has been reflected in Department litigation positions and administrative practice dating back to at least 2007, during the George W. Bush Administration.

Since that time, this interpretive framework has been maintained consistently through the Obama Administration, the Trump Administration, and the Biden Administration. Throughout these periods, the Department has recognized that compliance documentation serves an internal governance function designed to evaluate privacy risks, ensure statutory alignment, and support deliberative decision-making processes. Completion of such documentation for internal compliance purposes has not been treated as dispositive of disclosure obligations under FOIA. Instead, disclosure determinations have been understood to require independent, content-specific legal analysis grounded in statutory exemptions, applicable case law, and the operational sensitivity of the information at issue.

Department litigation posture over this period has reflected this continuity. In FOIA cases involving programmatic oversight materials, emerging technologies, and operational authorities, the Department has consistently advanced the position that compliance assessments and related deliberative materials may warrant protection under established exemptions, including the deliberative process privilege and law enforcement sensitivity provisions. These positions have been articulated across multiple administrations without material deviation, demonstrating that the underlying doctrine is institutional rather than tied to any specific administration.

The Department's issuance of clarifying template guidance and marking standardization following the events described in this memorandum therefore represents a continuation of established governance practice rather than the adoption of a novel legal interpretation. Federal agencies routinely refine administrative processes in response to operational experience,

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oversight interest, or evolving technological contexts. Such refinements are consistent with executive branch norms designed to preserve the integrity of internal deliberative processes while ensuring compliance with statutory disclosure obligations.

Accordingly, the actions taken by Department privacy leadership in this matter reflect the application of a long-standing administrative doctrine that has persisted across presidential administrations and litigation eras. The continuity of this approach underscores its foundation in federal administrative law and confirms that it is not attributable to recent policy shifts or political considerations.

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IF ASKED:

Response to Assertions Regarding Alleged "Illegal Orders"

External reporting asserts that Department leadership issued unlawful directives concerning the treatment and disclosure of Privacy Threshold Assessments (PTAs). A review of the administrative record, applicable law, and longstanding Department practice does not support this characterization. The assertions appear to stem from misunderstandings regarding the legal status of compliance instruments, the nature of FOIA disclosure determinations, and the administrative governance responsibilities of the Department's Privacy Office.

Claim: DHS issued "illegal orders" to mislabel records to block disclosure

The article asserts that Department leadership directed officials to mislabel compliance documents in order to prevent their public release. This characterization conflates internal document handling practices with statutory disclosure obligations under the Freedom of Information Act.

Internal compliance instruments such as PTAs may be marked to reflect their deliberative or pre-decisional status, or containing law-enforcement sensitive or commercially sensitive information. Such markings do not determine whether records will be released under FOIA. Disclosure determinations are made through independent statutory analysis conducted by FOIA professionals and agency counsel. Courts have consistently recognized that the presence or absence of administrative markings does not control FOIA outcomes.

Accordingly, the record does not support the conclusion that document marking practices constituted unlawful conduct or an attempt to circumvent statutory disclosure requirements.

Claim: Signed PTAs cannot be treated as drafts or deliberative

The article suggests that once a PTA is signed, it cannot contain deliberative material or be considered pre-decisional. This interpretation is inconsistent with administrative law doctrine and FOIA jurisprudence.

Federal courts have repeatedly recognized that internal analytical documents may still contain deliberative content even after it has been adjudicated by a DHS component. The determinative question is not whether a document has been signed or adjudicated for internal purposes, but whether its contents reflect advisory opinions, recommendations, or policy analysis. Moreover, the operational component or office may decide to alter its operations based on an adjudicated PTAs, and that any privacy analysis is predicational and deliberative. As such, PTAs are iterative in nature. When an operational component or office decides to alter its operations based on a previously adjudicated PTA, the affected component or office will likely adjudicate a new PTA.

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The Department's longstanding practice—reflected in litigation positions dating back more than a decade—has treated compliance assessments as distinct from final agency policy or legal determinations. This approach aligns with broader executive branch practice.

CBP's **FINAL** Published PTAs have been redacted citing to exemptions 4, 5, 6 and 7: Privacy Threshold Analysis (PTA) | U.S. Customs and Border Protection

Claim: DHS adopted a blanket policy to withhold PTAs

The article asserts that Department leadership implemented a categorical prohibition on the release of PTAs. The administrative record does not support this claim.

Department guidance has consistently stated that PTAs, like other agency records, are subject to case-by-case FOIA review. Such review considers the applicability of statutory exemptions, including deliberative process protections, law enforcement sensitivities, and confidential commercial information.

No Department policy has been issued categorically exempting PTAs from disclosure in full. The statement attributed to a DHS spokesperson accurately reflects longstanding FOIA practice.

Claim: Marking PTAs as privileged represents a "major change"

The article characterizes updated template guidance as a significant policy shift designed to expand secrecy. In practice, federal agencies routinely standardize document templates to clarify handling expectations and reduce ambiguity regarding the status of internal analytical materials.

The Department's clarifying guidance reflects established administrative law principles and longstanding practice across multiple administrations. The inclusion of deliberative or safeguarding caveats is consistent with government-wide norms and does not alter statutory disclosure obligations.

Claim: Reassignments of privacy officials demonstrate retaliation

The article implies that personnel decisions were made in response to objections regarding document handling practices. Personnel actions are outside the scope of this memorandum and involve considerations unrelated to FOIA doctrine or privacy compliance governance.

Any disagreement regarding the interpretation of administrative procedures does not establish that underlying policies are unlawful. Agencies routinely address internal governance disputes through supervisory and organizational mechanisms.

Claim: FOIA requires disclosure of PTAs as ordinary records

The article suggests that FOIA mandates the disclosure of PTAs in all circumstances. FOIA does not require categorical disclosure of any class of records. Instead, the statute requires agencies to assess records individually and apply exemptions where appropriate.

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Courts have repeatedly upheld the withholding of internal analytical materials under Exemption 5 where disclosure would reveal deliberative processes. The fact that some PTAs have been released in prior instances does not negate the applicability of exemptions in other contexts.

CBP's **FINAL** Published PTAs have been redacted citing to exemptions 5: Privacy Threshold Analysis (PTA) | U.S. Customs and Border Protection

Claim: Withholding PTAs prevents public oversight of surveillance

The article frames disclosure disputes as evidence of unlawful secrecy concerning surveillance activities. The Department's privacy compliance framework includes multiple mechanisms for oversight, including Privacy Impact Assessments, System of Records Notices, congressional reporting, and Inspector General review.

PTAs are preliminary compliance tools that determine whether additional formal assessments are required. Treating them as equivalent to final oversight instruments mischaracterizes their function within the statutory privacy framework.

Claim: Internal emails show a policy of non-release

The article cites isolated internal communications as evidence of Department policy. Individual statements made during deliberative discussions do not constitute binding agency policy. Formal Department policy is established through official guidance, regulations, or authoritative determinations.

The administrative record demonstrates that Department leadership consistently maintained that FOIA determinations must be conducted through established statutory processes.

Claim: DHS departure from past practice

The article suggests that recent actions represent a departure from historical Department practice. In fact, the distinction between internal compliance finality and statutory disclosure obligations has been maintained across administrations, including practices reflected in litigation positions dating back to at least 2007.

The Department's actions therefore represent continuity rather than policy innovation.

Conclusion

The record reflects that the document referenced in external reporting was lawfully released through established FOIA processes and that subsequent Department actions were directed toward improving administrative clarity and safeguarding deliberative integrity. Clarifications provided to CBP and ICE reaffirmed longstanding distinctions between internal compliance finality and statutory disclosure analysis.

The Department's response was measured, legally grounded, and consistent with federal governance norms. No evidence indicates improper restriction of disclosure or deviation from

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established administrative practice. Instead, the events described herein demonstrate routine institutional efforts to strengthen enterprise privacy governance following external attention.

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