



# Homeland Security

September 29, 2010

Mr. Edward Hasbrouck  
The Identity Project  
1736 Franklin Street  
9<sup>th</sup> Floor  
Oakland, CA 94612

Re: **CASE NUMBER 10-0951**

Dear Mr. Hasbrouck:

This letter is the final response to your August 2, 2010 Freedom of Information Act (FOIA) request addressed to the Department of Homeland Security (DHS). You requested copies of the 995 e-mail messages described in an article entitled "A Political Filter for Info Requests". Your request was received in this office on August 12, 2010.

A search of DHS for documents responsive to your request produced a total of 995 pages. Portions of some of the pages have been redacted pursuant to FOIA Exemptions 2(low), 5, and 6, 5 U.S.C. § 552(b)(2), (b)(5), & (b)(6).

The responsive documents to your request can be found online at:  
[http://www.dhs.gov/xfoia/gc\\_1283193904791.shtm](http://www.dhs.gov/xfoia/gc_1283193904791.shtm); DHS Office of General Counsel July 2010 Release to Associated Press Regarding DHS FOIA Process.

**FOIA Exemption 2(low)** protects information applicable to internal administrative personnel matters to the extent that the information is of a relatively trivial nature and there is no public interest in the document.

**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, we have determined that portions of the responsive documents qualify for protection under the deliberative process privilege. The deliberative process privilege protects the integrity of the deliberative or decision-making processes within the agency by exempting from mandatory disclosure opinions, conclusions, and recommendations included within inter-agency or intra-agency memoranda or letters. The release of this internal information would discourage the expression of candid opinions and inhibit the free and frank exchange of information among agency personnel.

- **Deliberative Process Privilege**

The deliberative process privilege protects the integrity of the deliberative or decision-making processes within the agency by exempting from mandatory disclosure opinions, conclusions, and recommendations included within inter-agency or intra-agency memoranda or letters. The release of this internal information would discourage the expression of candid opinions and inhibit the free and frank exchange of information among agency personnel.

- **Attorney Work-Product Privilege**

The attorney work-product privilege protects documents and other memoranda prepared by an attorney in contemplation of litigation.

- **Attorney-Client Privilege**

The attorney-client privilege protects confidential communications between an attorney and his client relating to a legal matter for which the client has sought professional advice. It applies to facts divulged by a client to his attorney, and encompasses any opinions given by an attorney to his client based upon, and thus reflecting, those facts, as well as communications between attorneys that reflect client-supplied information. The attorney-client privilege is not limited to the context of litigation.

**FOIA Exemption 6** exempts from disclosure personnel or medical files and similar files the release of which would cause a clearly unwarranted invasion of personal privacy. This requires a balancing of the public's right to disclosure against the individual's right to privacy. The privacy interests of the individuals in the records you have requested outweigh any minimal public interest in disclosure of the information. Any private interest you may have in that information does not factor in the aforementioned balancing test.

You have a right to appeal the above withholding determination, only as it applies to the FOIA Act. Should you wish to do so, you must send your appeal and a copy of this letter, within 60 days of the date of this letter, to: Associate General Counsel (Legal Counsel), U.S. Department of Homeland Security, Washington, D.C. 20528, following the procedures outlined in the DHS regulations at 6 C.F.R. § 5.9. Your envelope and letter should be marked "FOIA Appeal." Copies of the FOIA and DHS regulations are available at [www.dhs.gov/foia](http://www.dhs.gov/foia).

If you need to contact our office again about this matter, please refer to **CASE NUMBER 10-0951**. I can be reached at (202) 282-8598.

Sincerely,



Mia Day  
FOIA Officer

Office of the General Counsel  
Department of Homeland Security