



Homeland  
Security

May 15, 2013

[Name and address  
of requester  
redacted for posting  
at PapersPlease.org]

Re: **2013-HQFO-[FOIA request number redacted]**

Dear [name redacted]:

This acknowledges receipt of your Freedom of Information Act (FOIA) request to the Department of Homeland Security (DHS), seeking (1) access to records pertaining to you in systems of records maintained by CBP and DHS, (2) an accounting of all disclosures of any portion of those records, and (3) the correction of those records by expungement of illegally collected records. You request copies of all information pertaining to you contained in the following systems of records maintained by the CBP and DHS: the Automated Targeting System (ATS, DHS/CBP-006), Advance Passenger Information System (APIS, DHS/CBP-005), Border Crossing Information System (BCIS, DHS/CBP-007) U.S. Customs and Border Protection TECS (DHS/CBP-011), Non-Federal Entity Data System (NEDS, DHS/CBP-008), and DHS Use of the Terrorist Screening Database (TSDB) System of Records (DHS/ALL-030). Your request was received in this office on May 10, 2013.

As it relates to your request for information pertaining to you contained in the following systems of records maintained by the CBP and DHS: the Automated Targeting System (ATS, DHS/CBP-006), Advance Passenger Information System (APIS, DHS/CBP-005), Border Crossing Information System (BCIS, DHS/CBP-007) U.S. Customs and Border Protection TECS (DHS/CBP-011), Non-Federal Entity Data System (NEDS, DHS/CBP-008), you have already sent your request to the appropriate DHS component. This office does not maintain records from the above listed databases. You may contact the U.S. Customs and Border Protection Agency in writing at: U.S. Customs and Border Protection, 1300 Pennsylvania Ave., NW; Mint Annex; Washington, DC 20229-1181.

As it relates to your request for information on the TSDB, please be aware that information incorporated from the TSDB and/or WLS is information that is categorized as Sensitive Security Information ("SSI") under 49 U.S.C. § 114(r), and the implementing regulation found at 49 CFR part 1520. Records containing SSI are not available for public inspection or copying, nor can they be released to anyone who does not have an official need to know. 49 CFR §§ 1520.9(a)(2) and 1520.15(a).

Moreover, pursuant to 5 U.S.C. § 552(j)(2), the Federal Bureau of Investigation has exempted its system of records containing the TSDB from various provisions of the Privacy Act, including §552a(d), which provides for amendment and access rights. See 936 Fed. Reg. 72200-01. DHS obtains TSDB information from the FBI's Terrorist Screening Center and the FBI's exemption carries over when the TSDB information is transferred to the Department. In addition, the Department's Privacy Act systems of records that are authorized to receive TSDB information via the WLS, see Privacy Impact Assessment for

the Watch List Service available at [http://www.dhs.gov/xlibrary/assets/privacy/privacy\\_pia\\_dhswide\\_wls\\_update027\(b\).pdf](http://www.dhs.gov/xlibrary/assets/privacy/privacy_pia_dhswide_wls_update027(b).pdf), are also exempt, pursuant to 5 U.S.C. §§ 552a(j)(2), (k)(1) and/or (k)(2), from various provisions of the Privacy Act, including 5 U.S.C. § 552a(d). See also 76 Fed. Reg. 81787. Accordingly, to the extent records responsive to your Privacy Act request exist, your client has no right to access or amend the records contained in these systems and your Privacy Act request, as amended, is denied.

The Department is required to also process your Privacy Act request under the Freedom of Information Act (FOIA). See 5 U.S.C. § 552a(t)(2) and 6 CFR § 5.1(a)(1). Under FOIA, the Department can neither confirm nor deny the existence of any records that could reveal your status in the TSDB, because either a confirmation or denial that such records exist constitutes SSI, which is protected from release by FOIA exemption 3 (“specifically exempted from disclosure by statute...”), 5 U.S.C. § 552(b)(3). The applicable exempting statute is 49 U.S.C. § 114(r). Additionally, if any such responsive records existed, they would also be exempt from release under 5 USC § 552(b)(7)(E). Therefore, our FOIA analysis requires no change in our determination under the Privacy Act.

You have the right to appeal this determination to neither confirm nor deny the existence of responsive records. 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 (General Law), U.S. Department of Homeland Security, Washington, D.C. 20528, following the procedures outlined in the DHS FOIA 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).

The Office of Government Information Services (OGIS) also mediates disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. If you are requesting access to your own records (which is considered a Privacy Act request), you should know that OGIS does not have the authority to handle requests made under the Privacy Act of 1974. If you wish to contact OGIS, you may email them at [ogis@nara.gov](mailto:ogis@nara.gov) or call 1-877-684-6448.

Provisions of the Act allow us to recover part of the cost of complying with your request. Because the cost is below the \$14 minimum, there is no charge associated with this response.

Your request has been assigned reference number **2013-HQFO-[FOIA request number redacted]**. Please refer to this identifier in any future correspondence. You may contact this office at 1-866-431-0486.

Sincerely,

A handwritten signature in blue ink, appearing to read "Amy Pugh". The signature is fluid and cursive, with a large initial "A" and a long, sweeping tail.

Amy Pugh  
Senior FOIA Program Specialist