



October 26, 2022

U.S. Customs and Border Protection
Freedom of Information Act Office

Re: Freedom of Information Act Request Regarding Parole Guidance and Addresses Included in Agency Forms

Dear FOIA Officer:

The American Immigration Council (Council) (“Requester”) submits this Freedom of Information Act (FOIA) request for records related to U.S. Customs and Border Protection (CBP)¹ practices and policies impacting migrants who have been transported from Texas, Arizona, and Florida on buses and flights to other cities and states throughout the United States. Though much of the media coverage of busing and the Martha’s Vineyard flights has highlighted the role of state officials in providing misleading information to migrants and orchestrating their relocation, federal immigration officials also have played a role.

Many relocated migrants were misinformed about the nature of the travel and what services and resources awaited them at their destination. Migrants recently flown from Texas to Martha’s Vineyard, Massachusetts, for example, were provided with information about services that were not actually available, including cash and housing assistance, clothing, and job training, among other resources.² Attorneys for the migrants have described the information provided to their clients as “highly misleading” and “used to entice (their) clients to travel under the guise that (resettlement) support was available to them.”³ A Texas sheriff stated that the Venezuelans convinced to fly from Texas to Martha’s Vineyard were deceived and “lured under false pretenses.”⁴ Because the sheriff indicated that migrants flown to Martha’s Vineyard were victims of “unlawful criminal restraint,” they may be eligible for a U visa—a benefit available to immigrants who are victims of a crime.⁵

CBP granted humanitarian parole to some of the individuals who were relocated and continues to play a role in making the discretionary determination to extend these parole applications. Though CBP provides very basic

¹ Throughout this Request, all references to CBP include the U.S. Border Patrol.

² Maria Santana, Polo Sandoval, Priscilla Alvarez and Kristina Sgueglia, *Attorney for migrants send to Martha’s Vineyard looking for origination of brochures they believe were handed out under “false pretenses,”* CNN (Sept. 20, 2022), <https://www.cnn.com/2022/09/19/us/migrants-marthas-vineyard-brochure/index.html>.

³ *Id.*

⁴ Bexar County Sherriff’s Office, Sheriff’s News Briefing (Sept. 19, 2022), <https://www.facebook.com/BexarCoSheriff/videos/1141871490086751>

⁵ Samira Asma-Sadeque, *Migrants flown to Martha’s Vineyard may get visas after being declared victims of crimes,* THE GUARDIAN (Oct. 14, 2022), <https://www.theguardian.com/us-news/2022/oct/14/marthas-vineyard-migrants-visas-victims-crime-florida-texas>.

instructions about applying for parole on its website,⁶ the criteria to extend humanitarian parole or grant “re-parole” is not publicly available or widely understood.

In addition, it is unclear how CBP determines the mailing addresses to include in immigration documents, including addresses for migrants who have no contacts in the United States and therefore lack a readily available address. The addresses listed by CBP for migrants flown from Martha’s Vineyard—including reporting, parole, and release documents—were incorrect or nonexistent. According to one of the lawyers representing the migrants, the Department of Homeland Security (DHS) listed addresses in the migrants’ paperwork that included “random homeless shelters all across the country.”⁷ She stated that immigration agents listed these incorrect addresses “even when told by the migrants that they had no address in the U.S.”⁸ The documents provided required the migrants to check in with an ICE office nearest to these addresses or be removed from the United States.⁹ In addition to gathering information about decisions to grant parole and extensions of parole, this FOIA is intended to obtain records about how CBP determines the addresses to be listed on immigration paperwork.

This FOIA request is intended to obtain federal policies and procedures implicated in the recent relocation of migrants throughout the United States, where the actions or inactions of federal officials have important consequences for migrants, including their ability to seek protection in the United States.

In accordance with 5 U.S.C. § 552(a)(6)(A)(i), we expect a response to this request within 20 working days, unless otherwise permitted by statute.

I. REQUEST FOR INFORMATION

1. Current guidance and policies describing the process for granting parole, the criteria for determining the length of the parole period granted to individuals, and the criteria for extending parole.
2. Communication between CBP and U.S. Immigration and Customs Enforcement (ICE) regarding determinations about granting and extending parole between 2021 and the present.
3. Guidance and policies for determining the mailing address to include in documents issued by CBP between 2020 and the present.
4. Communication among CBP officers and Texas, Arizona, and Florida state and local officials related to buses and flights chartered to transport migrants between March 2022 and the present.
5. Interagency communication between CBP and ICE regarding the mailing address to include in documents issued by CBP between 2021 and the present.

⁶ CBP, Information Center/Humanitarian Parole (Sept. 13, 2021), https://helpspanish.cbp.gov/s/article/Article-1639?language=en_US (providing some assistance regarding how to request parole from CBP, but no information regarding how a parole extension application will be evaluated).

⁷ Sarah Boboltz, *Lawyer Says the Martha’s Vineyard Migrants Were Told to Give Falsified Documents*, HUFFPOST, (Sept. 17, 2022), https://www.huffpost.com/entry/marthas-vineyard-migrants-falsified-documents_n_6325f09ce4b0ed021dfd81ca

⁸ *Id.*

⁹ *Id.*

II. FORMAT OF PRODUCTION

We request that you produce responsive materials in their entirety, including all attachments, appendices, enclosures, and/or exhibits. Requesters seek responsive electronic records in a machine-readable, native file format, with all metadata and load files. We request that any data be provided in a workable format, such as Microsoft Excel or comma-separated values (CSV) files. If terms or codes are not in the form template and/or publicly defined, please provide a glossary or other descriptive records containing definitions of acronyms, numerical codes, or terms contained in data responsive to this request.

Requesters also ask that the records be provided electronically in a text-searchable, static-image format (PDF), in the best image quality in the agency's possession, and that the records be provided in separate, Bates-stamped files.

The communication requested should include emails and text messages sent and received on any platform, including WhatsApp and Signal.

III. FEE WAIVER REQUEST

Requester seeks a fee waiver because the information sought is "likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the [requesters]. ..." 5 U.S.C. § 552(a)(4)(A)(iii).

As outlined below, the Council seeks to shed public light on the federal policies that impact individuals transported from the border on buses and flights paid for by state officials in Texas, Arizona, and Florida. Because state officials facilitating the movement of migrants withhold critical information and intentionally misinform migrants, and because the busing and flights often happen without notice to service providers in the receiving communities, the role of federal agencies is unclear and bears further investigation.

Requester is a non-profit organization without a commercial interest in the release of this information. Requester intends, and has the demonstrated ability, to synthesize the information received via this FOIA request for release to and access by the public. Requester does not intend to charge the public for access to these records and information they contain. Further, Requester has a demonstrated track record of disseminating information obtained through FOIA requests to the public, in the production and release of films, and reaching a wide audience.

A. Disclosure Will Contribute to Public Understanding of CBP Operations

This FOIA request seeks information about CBP's actions with respect to migrants who were methodically removed from certain states on buses and on flights. Texas and Arizona have sent thousands of immigrants to

cities such as New York, Chicago, and Washington D.C. in recent months.¹⁰ And recently, in a political stunt by Florida Governor Ron DeSantis that received widespread attention, approximately 50 Venezuelan migrants were transported on two charter flights to Martha's Vineyard, Massachusetts.¹¹

Though the process of relocating migrants has been driven by state officials in Texas, Arizona, and Florida, certain practices by CBP officers have contributed to the misinformation and confusion encountered by these migrants upon arrival at their destinations.

Migrants have received immigration documents, which include key information about migrants' future proceedings, from federal agencies including CBP. Thus, the requested records are directly related to CBP's actions regarding migrants' movement throughout the country, which concern identifiable "operations or activities" of the government.

Disclosure of the requested information will contribute significantly to public understanding of CBP's practices with respect to migrants who arrive at our southern border who are relocated, including the agency's treatment of individuals who, in recent months, have been transported from the border by officials from Texas, Arizona, and Florida to other locations within the United States.

In addition, CBP has a well-documented history of poor accountability and transparency.¹² It is important for the public to understand the federal agencies' actions toward individuals who have been subject to deliberate misinformation and poor treatment after arriving in the United States. Because policies and procedures—such as those for extending parole—are not known to the public, it is difficult for the advocates assisting these migrants to understand and have confidence that federal officials are responding appropriately to the chaotic and potentially unlawful actions by state governments.

B. Disclosure of the Information Is Not in the Commercial Interest of the Requesters

The Council is a not-for-profit organization and has no commercial interest in the present request. See, e.g., 6

¹⁰ Alejandro Serrano, *New York City mayor declares state of emergency over busing of migrants from Texas*, THE TEXAS TRIBUNE (Oct. 7, 2022), <https://www.texastribune.org/2022/10/07/eric-adams-greg-abbott-migrant-busing-emergency/>; Muzaffar Chishti and Julia Gelatt, *Busing and Flights of Migrants by GOP Governors Mark a New Twist in State Intervention on Immigration*, MIGRATION POLICY INSTITUTE (Sept. 28, 2022), <https://www.migrationpolicy.org/article/migrant-asylum-seeker-busing>

¹¹ Edgar Sandoval, Miriam Jordan, Patricia Mazzei and J. David Goodman, *The Story Behind DeSantis's Migrant Flights to Martha's Vineyard*, THE NEW YORK TIMES (Oct. 4, 2022), <https://www.nytimes.com/2022/10/02/us/migrants-marthas-vineyard-desantis-texas.html>

¹² See, e.g., Guillermo Cantor and Walter Ewing, AMERICAN IMMIGRATION COUNCIL, STILL NO ACTION TAKEN: COMPLAINTS AGAINST BORDER PATROL AGENTS CONTINUE TO GO UNANSWERED (Aug. 2017) http://bit.ly/Council_StillNoActionTaken (examining records of alleged misconduct by Border Patrol employees); American Civil Liberties Union of San Diego & Imperial Counties, et al., ADMINISTRATIVE COMPLAINT RE: U.S. BORDER PATROL'S VERBAL ABUSE OF DETAINED INDIVIDUALS (July 2020), <https://www.aclusandiego.org/wp-content/uploads/2020/07/2020-07-07-OIG-Complaint-4-FINAL.pdf>; Garrett M. Graff, *The Border Patrol Hits a Breaking Point*, POLITICO, July 15, 2019, <https://www.politico.com/magazine/story/2019/07/15/border-patrol-trump-administration-227357>.

C.F.R. § 5.11(k)(3)(i)-(ii). The Council was established to increase public understanding of immigration law and policy, advocate for the fair and just administration U.S. immigration laws, protect the legal rights of noncitizens and citizens, and educate the public about the enduring contributions of immigrants. Through research and analysis, the Council has become a leading resource for policymakers at the national, state, and local levels who seek to understand the power and potential of immigration and to develop policies that are based on facts rather than myths. The Council also seeks to hold the government accountable for unlawful conduct and restrictive interpretations of the law and for failing to ensure that the immigration laws are implemented and executed in a manner that comports with due process through the pursuit of transparency and impact litigation.

To further its mission, the Council regularly provides information to the public based on its FOIA requests.¹³ As with all other reports and information available on the Council's website, the information that the Council receives in response to this FOIA request will be available to immigration attorneys, noncitizens, policymakers, and other interested members of the public on its publicly accessible website free of charge. In 2021, the Council received more than 2.6 million pageviews from more than 1.5 million visitors.

IV. EXEMPTIONS

If CBP withholds records based on its assessment that statutory exemptions apply to any of the records requested, please describe in detail the nature of the records withheld and the specific exemption or privilege upon which the record is withheld. If any portion(s) of the requested records are determined to be exempt, please provide the non-exempt portions. 5 U.S.C. §552(a)(8)(A)(ii)(II).

Thank you in advance for your attention to this request. If you have any questions regarding this request, please feel free to email or call Emily Creighton using the contact information under the signature block below.

Sincerely,

/s/Emily Creighton

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