



January 5, 2024

Via Secure Release Portal

Mason Clutter, Chief FOIA Officer
U.S. Department of Homeland Security
Privacy Office, Mail Stop 0655
2707 Martin Luther King Jr. Ave. SE
Washington, DC 20528

Via Email: foia@tsa.dhs.gov

Teri Miller, FOIA Officer
Transportation Security Administration
6595 Springfield Center Drive
Springfield, VA 22150
Arlington, VA 22202

Freedom of Information Act Request: TSA Vetting of Illegal Aliens

Dear Mr. Clutter and Ms. Miller:

America First Legal Foundation is a national, nonprofit organization working to promote the rule of law in the United States, prevent executive overreach, and ensure due process and equal protection for all Americans, all to promote public knowledge and understanding of the law and individual rights guaranteed under the Constitution and laws of the United States. To that end, we file Freedom of Information Act (FOIA) requests on issues of pressing concern, then disseminate the information we obtain, making documents broadly available to the public, scholars, and the media. Using our editorial skills to turn raw materials into distinct work, we distribute that work to a national audience through traditional and social media platforms. AFL has over 189,000 followers on X, and our Founder and President has over 562,000 followers on X.

I. Background

Over the holiday travel season, the flying public witnessed multitudes of illegal aliens traveling through airports and boarding flights across the country.¹ Reportedly, these

¹ See, e.g., Ashley St. Clair (@stclairashley), TWITTER (Dec. 19, 2023), <http://tinyurl.com/25ndpr3>; Bill Melugin (@BillMelugin_), TWITTER (Dec. 22, 2023), <http://tinyurl.com/mr3khera>.

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groups of individuals each carried plastic bags containing their belongings and a phone and were accompanied by an interpreter—all presumably paid for by non-governmental organizations (NGOs).² It is unclear whether their numbers consist of, or are in addition to, the tens of thousands of illegal aliens that the Biden Administration has proposed to house at public airports.³

The Transportation Security Administration (TSA) recognizes that “[a]viation is a preferred target for terrorists seeking to conduct spectacular mass-casualty attacks that cause economic damage and garner widespread media attention.”⁴ But while the TSA rigorously screens law-abiding Americans,⁵ it effectively takes illegal aliens at their word for their identities.⁶ In October 2023, U.S. Customs and Border Protection (CBP) released statistics showing that they detained more people on the Federal Bureau of Investigation (FBI) terror watch list in fiscal year 2023 than the last six fiscal years combined.⁷ In November 2023, FBI Director Christopher Wray testified at a congressional hearing that 56 FBI joint terrorism task forces are occupied with threats coming across the border, and Department of Homeland Security (DHS) Secretary Alejandro Mayorkas could not confirm that CBP detains every suspected terrorist that crosses the Southwest border.⁸

To uncover the extent of this national security risk and the potential that NGOs facilitating the interstate travel of illegal aliens may have influenced the DHS and TSA officials responsible for aviation screening policy, AFL requests the following records under 5 U.S.C. § 552(a):

² A.P. Dillon, *Images Show Non-U.S. Citizens Taking Commercial Flights into Charlotte*, N. STATE J. (Jan. 4, 2024), <http://tinyurl.com/amfkryrv>; see also America First Legal (@America1stLegal), TWITTER (Dec. 23, 2023); <http://tinyurl.com/5a49kyjp>.

³ Letter from Sam Graves, Chairman, H. Comm. on Transp. and Infrastructure et al., to the Hon. Pete Buttigieg, Sec’y of Transp. (Nov. 6, 2023), (available at <http://tinyurl.com/3anpm9vj>).

⁴ DEP’T HOMELAND SEC., BIENNIAL NATIONAL SECURITY STRATEGY FOR TRANSPORTATION SECURITY at 3 (Apr. 18, 2023) (available at <http://tinyurl.com/muncaaw5>).

⁵ E.g., *Acceptable Identification at the TSA Checkpoint*, TRANSP. SEC. ADMIN., <http://tinyurl.com/yc4ch8y2> (“Beginning May 7, 2025, if you plan to use your state-issued ID or license to fly within the U.S., make sure it is REAL ID compliant.”) (last visited Jan. 4, 2024).

⁶ Letter from Ted Cruz, Ranking Member, S. Comm. on Com., Sci., and Transp., to the Hon. Alejandro Mayorkas, Sec’y of Homeland Sec. (Dec. 20, 2023) (available at <http://tinyurl.com/mvh56efv>); Letter from Matt Gaetz, Member of Congress, to Ed Bastion, Chief Exec. Officer, Delta Air Lines (Dec. 22, 2023) (available at David Greyson, *Republican Rep. Matt Gaetz Demands Inquiry Into Delta Airlines Transport of Illegal Aliens*, GATEWAY PUNDIT (Dec. 24, 2023), <http://tinyurl.com/mucphtrm>); Randy Clark, *Biden’s TSA Designates Special Airport Screening Line for Migrants Without Required ID*, BREITBART (Dec. 9, 2023), <http://tinyurl.com/yhkm4wk2>.

⁷ Adam Shaw, *Border Patrol Stops Record Number of People on Terror Watch List at Southern Border*, FOX NEWS (Oct. 21, 2023), <http://tinyurl.com/yck6p856>.

⁸ *FBI Director Wray Confirms the Border Crisis Poses Major Homeland Security Threat, DHS Secretary Mayorkas Stonewalls*, HOMELAND SEC. REPUBLICANS (Nov. 15, 2023), <http://tinyurl.com/m5fwtd8v>.

II. Requested Records

- A. Records showing how many illegal aliens were permitted to board an airplane during each month from fiscal year 2021 to the date this request is processed.
- B. Records showing how many illegal aliens were permitted to board an airplane with “acceptable alternative identification” during each month from fiscal year 2021 to the date this request is processed.
- C. For the custodians listed below, all records addressing the security risk presented by “acceptable alternate identification” or “acceptable alternative identification.” The time period for this request is January 1, 2022, to the date this request is processed.
- D. For the custodians listed below, all records of communications with any email address with a non-governmental domain referring to: “acceptable alternate identification,” “acceptable alternative identification,” “CBP One,” or “NO NAME GIVEN.” The time period for this request is January 1, 2022, to the date this request is processed.

III. Custodians

Department of Homeland Security

- 1. Alejandro Mayorkas
- 2. John K. Tien
- 3. Karen L. Olick
- 4. Robert Silvers
- 5. Kelli Ann Burriesci
- 6. Samantha Vinograd
- 7. Casie Antalis
- 8. David Shahoulian
- 9. Isabella Ulloa
- 10. Charanya Krishnaswami
- 11. Angela Maria Kelley Caughlin
- 12. Tom Tsvi Morley Jawetz
- 13. Adam M. Hunter
- 14. Michelle Brané

Transportation Security Administration

- 15. David P. Pecoske
- 16. Holly E. Canevari
- 17. Saundra J. Rupert-Shropshire

18. Harlan C. Geer
19. Eitan Geller-Montague
20. Eddie Mayenschein
21. John Latta
22. Myung Kim
23. Michael Herman

IV. Fee Waiver

Per 5 U.S.C. § 552(a)(4)(A)(iii) and 6 CFR § 5.11(k), AFL requests a waiver of all search and duplication fees. AFL has a demonstrated ability and intention to effectively convey the information broadly to the public, and it has been granted fee waivers by the Departments of State, Defense, Education, Energy, Health and Human Services, Justice, Interior, and Homeland Security based on its status as a representative of the news media. As a non-profit organization, AFL has no commercial interest in this request, which is made entirely to serve the public interest. Finally, disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and of government operations. We are, of course, available to provide additional information in writing or offline to support this request. If AFL's request for a fee waiver is not granted in full, please contact us immediately.

Processing should strictly comply with the processing guidance in the Attorney General's Memorandum on Freedom of Information Act Guidelines. If you have any questions about our request or believe further discussions regarding search and processing would facilitate the more efficient production of requested records, please contact me at FOIA@aflegal.org.

V. Expedited Processing

AFL requests expedited processing of this request. In support of thereof, AFL certifies its compelling need for expedited processing.

AFL is "primarily engaged in disseminating information" under 6 CFR 5.5(e)(1)(ii). As explained below, this request is "urgent" because it seeks information regarding the national security risk posed by poorly vetted passengers to everyday travelers at airports across the country. This issue is of "widespread and exceptional media interest in which there exist possible questions about the government's integrity which affect public confidence," 6 CFR 5.5(e)(1)(iv). Accordingly, AFL is seeking information about the security risks considered by policymakers at DHS and TSA as decisions are made to facilitate the travel of illegal aliens around the country by air. At the very least, DHS and TSA's policies pose a grave national security risk to law-abiding American citizens flying on the same flights. 6 CFR 5.5(e)(1)(i).

Prompt disclosure of this information will inform the public about the operation of the government and enforcement of aviation security laws, and provide Congress, the media, and voters with critical insight into DHS and TSA's facilitation of the resettlement of illegal aliens across the country.

VI. Conclusion

To accelerate your release of responsive records, AFL welcomes production on an agreed rolling basis. Please provide responsive records in an electronic format by email. Alternatively, please provide responsive records in native or PDF format on a USB drive to America First Legal Foundation, 611 Pennsylvania Ave SE #231, Washington, DC 20003.

Thank you in advance for your cooperation.

Sincerely yours,

/s/ Michael Ding
America First Legal Foundation