

Mr. Reed Rubinstein

N/A

611 Pennsylvania Ave SE #231
Washington, D.C., DC, 20003

06/06/2023

CBP-2021-087953

Dear Mr. Reed Rubinstein,

This is a final response to your Freedom of Information Act (FOIA) request to U.S. Customs and Border Protection (CBP) for:

1. All records reflecting the number of aliens who have been issued a form I-862 by CBP, broken down by time frames no longer than one month.
This information is posted on CBP.gov at: <https://www.cbp.gov/newsroom/stats/custody-and-transfer-statistics>.
2. All records reflecting, referring, or relating to the rate at which aliens appear for their court dates after being issued an NTA. **CBP does not have these records. CBP defers to ICE, EOIR, and/or USCIS.**
3. All records reflecting, referring, or relating to compliance rates in "alternatives to detention" programs. **CBP does not have these records. The "alternatives to detention" programs are run by ICE.**
4. All records reflecting, referring, or relating to aliens' ultimate compliance with final orders of removal, including records indicating how many aliens are present in the United States with final orders of removal. **CBP does not have these records. CBP defers to ICE, EOIR, and/or USCIS**
5. All communications with the Department of Justice's Executive Office of Immigration Review related to the rate at which aliens appear, or do not appear, for scheduled court dates. **CBP does not have these records. CBP defers to ICE, EOIR, and/or USCIS.**
6. All data and records provided to the Secretary of Homeland Security related to aliens appearing for immigration court proceedings, and the ultimate compliance rate with which aliens comply with orders of removal. **CBP does not have these records. CBP defers to ICE, EOIR, and/or USCIS.**
7. All records relaying the decision to end the practice of issuing NTAs, including any signed memorandum, guidance, policy, directive, or otherwise and all communications distributing that decision through the chain of command or to the workforce.
CBP has never suspended the issuance of NTAs. **There has not been any recent time where immigration officers have been barred from issuing NTAs.**
8. All records discussing, referring, or relating to paroling aliens with an NTA. **No records. Aliens issued an NTA would not also need to be paroled.**
9. All records discussing, referring, or relating to paroling aliens without an NTA.
A copy of the Parole Plus Alternative to Detention memo is publically available at:
<https://www.cbp.gov/sites/default/files/assets/documents/2023-May/Parole%20Plus%20Alternative%20to%20Detention.pdf>
10. All communications with any person in the DHS Front Office or Office of Strategy, Policy, and Plans relating to changing the practice of issuing a "Notice to Appear", "Notices to Appear", "NTA" or "NTAs" to aliens apprehended along the Southwest Border.
CBP does not have these records.
11. All communications with any email address ending in "@who.eop.gov" related to changing the practice of issuing a NTA to aliens apprehended along the Southwest Border, detention policies. **No Records found**

CBP has 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. CBP is granting your request under the FOIA, Title 5 U.S.C. §552. After carefully reviewing the responsive documents, CBP has determined that they are approved for release in their entirety, no deletions or exemptions have been applied.

If you have a FOIAonline account, you MUST log into your account to retrieve your responsive records. After logging in, click on "View My FOIA Requests". Requests that have new, unread correspondence have a mail icon next to the tracking number.

This completes the CBP response to your request.

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. See 5 U.S.C. 552(c). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

This completes the CBP response to your request. You may contact CBP's FOIA Public Liaison, Charlyse Hoskins, by sending an email via your FOIAonline account, mailing a letter to 90 K St, NE MS 1181, Washington DC, 20229 or by calling 202-325-0150. (If you need telecommunication relay service (TRS) assistance to communicate with the CBP FOIA Office and you are in the United States, please dial 711 to obtain TRS assistance and notify the Communications Assistant that you want to contact the CBP FOIA Office at the telephone number (202) 325-0150). The FOIA Public Liaison is able to assist in advising on the requirements for submitting a request, assist with narrowing the scope of a request, assist in reducing delays by advising the requester on the type of records to request, suggesting agency offices that may have responsive records and receive questions or concerns about the agency's FOIA process. Please notate file number CBP-2021-087953 on any future correspondence to CBP related to this request.

If you are not satisfied with the response to this request, you have a right to appeal the final disposition. Should you wish to do so, you must file your appeal within 90 days of the date of this letter following the procedures outlined in the DHS regulations at Title 6 C.F.R. §5.8. Please include as much information as possible to help us understand the grounds for your appeal. You should submit your appeal via FOIAonline by clicking on the "Create Appeal" button that appears when you view your initial request. If you do not have a FOIAonline account, you must send your appeal and a copy of this letter to: FOIA Appeals, Policy and Litigation Branch, U.S. Customs and Border Protection, 90 K Street, NE, 10th Floor, Washington, DC 20229-1177. Your envelope and letter should be marked "FOIA Appeal." Copies of the FOIA and DHS regulations are available at www.dhs.gov/foia. Additional information can be found at the following link https://www.cbp.gov/sites/default/files/assets/documents/2019-Dec/definitions-exemptions-foia_0.pdf.

U.S. Customs and Border Protection (CBP) will end participation in FOIAonline on September 30, 2022. Requesters can use the [DHS Portal](#) to send requests and appeals to CBP beginning October 12, 2022. In the interim, appeals can be submitted via e-mail to foia_help_mailbox@cbp.dhs.gov. **If possible, we encourage you to wait until our new processing system goes live to submit your appeal through the DHS Portal.** Any appeals sent to CBP during the transition will need to be manually entered by staff after the transition is complete and will divert resources away from processing appeals. Appeals filed in FOIAonline prior to October 1, 2022 will be processed. Please be patient as we work through the transition process.

Additionally, you have a right to seek dispute resolution services from the Office of Government Information Services (OGIS) which 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. You may contact OGIS as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769. Please note that contacting the CBP FOIA Public Liaison or OGIS **does not** stop the 90-day appeal clock and **is not** a substitute for filing an administrative appeal.

Sincerely,

U.S. Customs and Border Protection