



**U.S. Immigration  
and Customs  
Enforcement**

June 25, 2012

William Frick  
Law Office of William Frick  
7900 SE 28<sup>th</sup> Street, Suite 500  
Mercer Island, WA 98040

**RE: ICE FOIA Case Number 2012FOIA15199  
USCIS FOIA Case Number NRC2011095393**

Dear Mr. Frick:

This is the final response to your Freedom of Information Act (FOIA) request to U.S. Citizenship and Immigration Services (USCIS), dated August 30, 2011. You are seeking records pertaining to your client, Turgut Tarhan.

A search of USCIS for records responsive to your request produced 96 documents that originated from U.S. Immigration and Customs Enforcement (ICE). USCIS referred these documents to ICE for review and processing under the FOIA.

To provide you with the greatest degree of access authorized by law, we have considered your request under both the FOIA, 5 U.S.C. § 552, and the Privacy Act, 5 U.S.C. § 552a. Information about an individual that is maintained in a Privacy Act system of records may be accessed by that individual<sup>1</sup> unless the agency has exempted the system of records from the access provisions of the Privacy Act.<sup>2</sup>

After a review of the records referred by USCIS to ICE, I have determined that 12 documents will be released in their entirety and portions of the remaining documents will be withheld pursuant to exemption (k)(2) of the Privacy Act and exemptions 5, 6, 7(C), and 7(E) of the FOIA as described below.

**Privacy Act Exemption (k)(2)** exempts from mandatory disclosure investigatory material compiled for law enforcement purposes, other than criminal, which did not result in loss of a right, benefit or privilege under Federal programs, or which would identify a source who furnished information pursuant to a promise that his/her identity would be held in confidence.

ICE has applied FOIA Exemption 5 to protect from disclosure attorney work-product privilege of an agency employee.

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<sup>1</sup> 5 U.S.C. § 552a(d)(1).

<sup>2</sup> 5 U.S.C. §§ 552a(d)(5), (j), and (k).

**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, I have determined that portions of the responsive documents qualify for protection under the attorney work-product 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. The attorney work-product privilege protects documents and other memoranda prepared by an attorney in contemplation of litigation. 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.

ICE has applied FOIA Exemptions 6 and 7(C) to protect from disclosure the names, phone numbers, and addresses of DHS employees and third parties contained within the documents.

**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 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 into the aforementioned balancing test.

**FOIA Exemption 7(C)** protects records or information compiled for law enforcement purposes that could reasonably be expected to constitute an unwarranted invasion of personal privacy. This exemption takes particular note of the strong interests of individuals, whether they are suspects, witnesses, or investigators, in not being unwarrantably associated with alleged criminal activity. That interest extends to persons who are not only the subjects of the investigation, but those who may have their privacy invaded by having their identities and information about them revealed in connection with an investigation. Based upon the traditional recognition of strong privacy interest in law enforcement records, categorical withholding of information that identifies third parties in law enforcement records is ordinarily appropriate. As such, I have determined that the privacy interest in the identities of individuals in the records you have requested clearly outweigh any minimal public interest in disclosure of the information. Please note that any private interest you may have in that information does not factor into this determination.

ICE applied FOIA Exemption 7(E) to protect from disclosure internal agency secure URL addresses, internal agency law enforcement investigative case numbers, internal agency law enforcement investigative database names, internal agency law enforcement charge codes, internal agency law enforcement event numbers, internal agency law enforcement subject ID numbers, and internal agency law enforcement investigative procedures.

**FOIA Exemption 7(E)** protects records compiled for law enforcement purposes, the release of which would disclose techniques and/or procedures for law enforcement investigations or

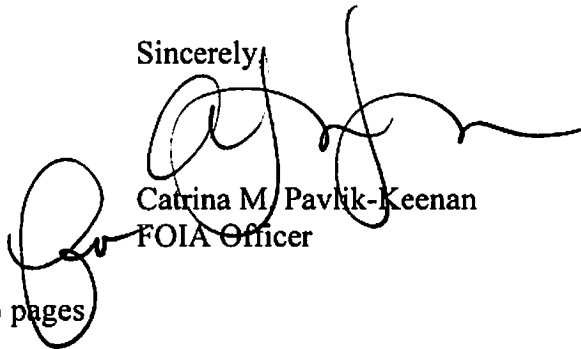
prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law. I have determined that disclosure of certain law enforcement sensitive information contained within the responsive records could reasonably be expected to risk circumvention of the law. Additionally, the techniques and procedures at issue are not well known to the public.

You have the right to appeal ICE's withholding determination. Should you wish to do so, send your appeal and a copy of this letter to: U.S. Immigration Customs Enforcement, Office of Principal Legal Advisor, U.S. Department of Homeland Security, Freedom of Information Office, 500 12<sup>th</sup> Street, S.W., Stop 5009 Washington, D.C. 20536-5009, following the procedures outlined in the DHS regulations at 6 C.F.R. § 5.9. Your appeal must be received within 60 days of the date of this letter. 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).

Provisions of the FOIA and Privacy Act allow us to recover part of the cost of complying with your request. In this instance, because the cost is below the \$14 minimum, there is no charge.<sup>3</sup>

If you need to contact our office about this matter, please refer to FOIA case number **2012FOIA15199**. This office can be reached at (202) 732-0600 or (866) 633-1182.

Sincerely,

A handwritten signature in black ink, appearing to read 'Catrina M. Pavlik-Keenan', is written over the typed name and title. The signature is fluid and cursive, with a large loop at the end.

Catrina M. Pavlik-Keenan  
FOIA Officer

Enclosure(s): 1 CD containing 96 pages

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<sup>3</sup> 6 CFR § 5.11(d)(4).