



U.S. Immigration
and Customs
Enforcement

August 20, 2010

Bill Conroy
9127 Alpine Trail St.
San Antonio, TX 78250-3047

RE: DHS08-111, 2005FOIA19041

Dear Mr. Conroy:

This is a response pursuant to the remanded appeal of your Freedom of Information Act (FOIA) request referenced above. Your initial request sought all information about yourself, as well as records in relation to ICE Office of Professional Responsibility (OPR) agent Carlos Salazar, his visit to your home on May 23, 2005, and his visit to your work office.

U.S. Immigration and Customs Enforcement (ICE) FOIA initially denied your request in full pursuant to FOIA exemption (b)(7)(A) to avoid interference with ongoing law enforcement proceedings. Upon remand of your appeal, ICE FOIA determined that the law enforcement proceeding at issue in the foregoing case has concluded. As such, your request has been re-processed. A search by the Office of Professional Responsibility (OPR) for records responsive to your request returned a total twenty (20) pages. Of these, ten (10) pages are entirely duplicative of the other ten (10) pages of the report. One (1) of those pages is being released to you in full, and the other nine (9) are being released to you subject to the withholdings listed below.

The nine (9) responsive documents contained third party names, user numbers, and witness statements from an unsubstantiated OPR investigation that have been withheld to prevent an unwarranted invasion of privacy under (b)(6) and (b)(7)(C). Additionally, a single case file number external to OPR was withheld on page 2 as internal to the programs and processes of the agency.

The justification for the use of these exemptions follows.

FOIA Exemption 2(high) protects information applicable to internal administrative and personnel matters, such as operating rules, guidelines, and manual of procedures of examiners or adjudicators, to the extent that disclosure would risk circumvention of an agency regulation or statute, impede the effectiveness of an agency's activities, or reveal sensitive information that may put the security and safety of an agency activity or employee at risk. Whether there is any public interest in disclosure is legally irrelevant. Rather, the concern under high 2 is that a FOIA disclosure should not benefit those attempting to violate the law and avoid detection.

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

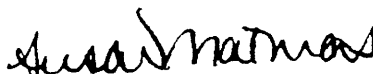
the information. Any private interest you may have in that information does not factor into the aforementioned balancing test.

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.

This decision is the final action of the Department of Homeland Security concerning your FOIA/PA request. Inasmuch as you consider this to be a denial of your appeal, you may obtain judicial review of this decision pursuant to the provisions of 5 U.S.C. § 552(a)(4)(B) in the United States District Court in the district in which you reside, in which the agency records are situated, or in the District of Columbia.

Should you have any questions regarding this administrative closure of your appeal, please contact ICE at ice-foia@dhs.gov. In the subject line of the email, please include the word "appeal," your appeal number, which is **DHS08-111**, and the FOIA case number, which is **2005FOIA19041**.

Sincerely,



Susan Mathias
Deputy Chief
Commercial and Administrative Law Division
ICE Office of the Principal Legal Advisor
Department of Homeland Security

Enclosure: 10 pages

Case

Case Number 200505186

Case Type Investigation

Status Closed

The Case is Closed

Incident City

Incident State TEXAS

Undercover Flag

Group ICE OPR Special Invest

Case Officer

Case Supv

Case Agent

Case Agent Supv

2nd FD / IG Tracking

Subject Last Name

Subject First Name

Subject SSN

Subject DOB

Subject Type

SPECIAL AGENTS OR INVEST

Subject Office

Method of Receipt

Fax

Log Related Objects Entities

Case Summary ALLEGEDLY INAPPROPRIATELY ASKED A REPORTER TO REVEAL HIS SOURCE OF INFORMATION

LER/ELR

Comments

Primary FD 1NO:NON CRIMINAL MISCONDUCT

FD Resolution Code

Prosecution Date Submitted

Accepted Date

Declined Date

Class Non Criminal (S)

Decision

Arrest Date

Note and Knowledge

Type Notes

Status

Refresh (R)

Links

Outcome

New

Detail

View Log

FILE ID : 200505186

DATE	TIME	FIELD NAME	BEFORE	AFTER	CHG USER
09/16/05	08:35	45 DAY DO REV			
08/02/05	10:06	45 DAY DO REV			
06/09/05	09:14	FILE SUPERVISOR ID	(b)(6), (b)(7)		
06/09/05	09:14	ID AUTOMATIC APPROVA			
06/08/05	20:13	INTAKE OUT		20050608	
06/08/05	20:13	FILE OPENED BY ID			
06/08/05	20:13	FILE OFFICER ID	(b)(6), (b)(7)		
06/08/05	20:13	FILE SUPERVISOR ID			
06/08/05	20:13	TRANSFER APPROVED	IS	SI	(b)(6), (b)(7)
06/08/05	20:13	ROI APPROVAL		ROI # 001	
06/08/05	20:12	FILE SUMMARY		MODIFIED	
06/08/05	19:56	FILE APPROVED			
06/08/05	19:56	INTAKE IN		20050608	
06/08/05	19:56	ROI APPROVAL		ROI # 001	
06/08/05	17:03	PRIMARY VIOLATOR			
06/08/05	16:59	SEND TO IRG	(J)	N	
06/08/05	16:24	FILE ENTERED			

06/08/05

ALLEGEDLY INAPPROPRIATELY ASKED A REPORTER TO REVEAL HIS SOURCE OF
INFORMATION.

***** Extended Summary *****

06/08/05

06082005 No referral to DHS/OIG, verbal declination already received.
File referred to ICE/OPR SIU.

FILE TITLE: [REDACTED] /AGNT/NON-CRIMINAL MISCON /BEXAR TX
STATUS: 1 - INITIAL REPORT
ENTRY DTE: 06/08/2005 RPT DTE: 06/08/2005 DTE ASSIGN: 06/08/2005 CLASS: 2 LMR
OFC: 23
FILE DESC CODE: NON-CRIMINAL MISCONDUCT REPORT #: 001 FILE #: 200505186
UNDEVELOPED LEADS TO:
TYPE: 0 OTHER
FINAL RESOLUTION:
TOPIC: ALLEGED INAPPROPRIATE INTERVIEW OF A REPORTER
DISTRIBUTION CODES:
ORIGINATOR: [REDACTED]
SUPERVISOR: [REDACTED] (b)(6) (b)(7)
OFFICE: INTAKE SITUATION ROOM TEL: 202344[REDACTED] ENTERED: 22/968914 QRY NOT: 0

***** SYNOPSIS *****

On June 8, 2005, the Joint Intake Center (JIC), Washington, D.C., received a facsimile copy of a memorandum written by [REDACTED] National President of the Federal Hispanic Law Enforcement Officers Association (FHLEOA) regarding allegations of retaliation against Bill Conroy, a reporter for the San Antonio [REDACTED] [REDACTED], by U.S. Immigration and Customs Enforcement (ICE) Office of Professional Responsibility (OPR) [REDACTED] and [REDACTED] San Antonio, TX. (b)(6) (b)(7)
A file has been created by the JIC on this matter.

***** NARRATIVE *****

DETAILS OF INVESTIGATION:

On June 8, 2005, the Joint Intake Center (JIC), Washington, D.C. received a facsimile copy of a memorandum written by [REDACTED] National President of the Federal Hispanic Law Enforcement Officers Association (FHLEOA) regarding allegations of retaliation against Bill Conroy, a reporter for the San Antonio [REDACTED] [REDACTED], by U.S. Immigration and Customs Enforcement (ICE) Office of Professional Responsibility (OPR) [REDACTED] and [REDACTED] San Antonio, TX. (b)(6) (b)(7)

The following is a verbatim recreation of the information received by the JIC.

<Begin>

Request for Investigation of DHS Agents

06-08-2005

June 8, 2005

The Honorable Richard L. Skinner

Acting Inspector General

Department of Homeland Security (DHS)

Washington, D.C. 20528

Dear Mr. Skinner:

I am writing on behalf of the Federal Hispanic Law Enforcement Officers Association (FHLEOA) to respectfully request an investigation of the Office of Professional Responsibility (OPR) of the Bureau of Immigration and Customs Enforcement (ICE) for the questionable actions taken by ICE OPR Special Agents regarding Mr. Bill Conroy, an Investigative reporter and editor of the San Antonio [REDACTED] [REDACTED]. Their actions appear to have been undertaken as retaliation against Mr. Conroy for his reporting of ICE wrong doing.

As all federal agents must do, ICE OPR agents swore to support and defend the Constitution of the United States against all enemies." However they

have violated Mr. Conroy's constitutionally protected freedom of speech. Mr. Conroy has done an outstanding job of truthfully reporting alleged misconduct in the DHS, and ICE in particular. Specifically, he has covered extensively the federal discrimination class action lawsuit filed against the former U.S. Customs Service, which is currently being litigated in U.S. District Court in Washington, D.C.

We believe there are a number of questions that must be answered in this matter such as who authorized the agents to contact Mr. Conroy's spouse and his immediate superior at the San Antonio [REDACTED] [REDACTED]. Also, what are the motives behind these disturbing actions by government agents? Were these agents trying to send a message to DHS employees in order to intimidate them into not reporting misconduct and waste, fraud and abuse in the government?

For doing his job well as an investigative reporter, for the benefit of the entire nation, Mr. Conroy has now been targeted for retaliation by DHS bureaucrats in what can only be described as a blatant display of bully tactics, intimidation, and abuse of authority that threaten the freedoms all Americans hold dear. It can be argued that these agents and their superiors have now become domestic enemies of the Constitution they have sworn to protect. In reviewing the attached article by [REDACTED] dated May 24, 2005, and by Conroy himself dated April 7, 2005, our Board of Directors has concluded that the ultimate objective of the OPR "interview" of Mr. Conroy was to obtain the names of the federal employees who made protected whistleblower disclosures to the press, to intimidate Mr. Conroy and his family, and to get him fired from his job with the San Antonio [REDACTED] [REDACTED]. These actions are reprehensible to say the least.

As federal law enforcement officers we are well aware that prior to conducting investigations or interviews of members of the press such as Mr. Conroy, a series of approvals must be obtained from the investigative agency's headquarters as well as from the United States Attorney. These policies are in place with almost every federal agency because of the sensitivities involved, which include constitutional issues dealing with our basic freedoms such as freedom of speech.

We note that the DHS discontinued its requirement that department employees sign a secrecy pledge prohibiting them from sharing sensitive but unclassified information with the public. According to the agreement, any information that could compromise the privacy of individuals or "adversely affect the national interest or conduct of federal programs" was considered sensitive, according to New York Times (01/18/05). Prior to this policy change, violators risked administrative, disciplinary, criminal and civil penalties. One provision required signers to consent to government inspections "at any time or place" to ensure compliance. In the instant case, the OPR agents described the document in question as being non-classified.

Finally, as I am sure you know, protected disclosures reported to you, or to any authorized recipient, fall under the Federal Employee Protection of Disclosures Act (Bill # S.494) which amended the Homeland Security Act of 2002. I ask that you direct DHS supervisors and management officials to obey the law and stop retaliating against employees for making protected disclosures. By exercising caution and common sense when dealing with employees, and by taking appropriate steps to eliminate the potential for retaliatory conduct, your organization can effectively reduce the risk of lawsuits and damages.

Thank you for your time, and know that you have our sincere best wishes in what we all know is a difficult but very important position.

Sincerely,

(b) (7)

National President

cc: The Honorable Michael Cherthoff, Secretary of Homeland Security
The Honorable Alberto Gonzales, Attorney General
The Honorable Senator Chuck Grassley

<End>



DEPARTMENT OF HOMELAND SECURITY

Immigration and Customs Enforcement
Office of Professional Responsibility

REPORT OF INVESTIGATION

HB 4200-01 (37), Special Agent Handbook

1. CASE NUMBER

200505186

PREPARED BY

2. REPORT NUMBER

001

3. TITLE

(b)(6), (b)(7)(C) / CRIM INVSTGR/NON-CRIMINAL MISCONDUCT/BEXAR, TEXAS

4. FINAL RESOLUTION

5. STATUS

Closing
Report

6. TYPE OF REPORT

Investigative Findings

7. RELATED CASES

200503870 200505187

8. TOPIC

(b)(6), (b)(7)(C) - Failure to Get Approval to Interview Member of the Press

9. SYNOPSIS

On June 8, 2005, the Joint Intake Center, Washington, D.C., received a copy of a letter written by (b)(6), (b)(7)(C) National President of the Federal Hispanic Law Enforcement Officers Association (FHLEOA). In his letter, Mr. (b)(6), (b)(7)(C) alleges that a visit by U.S. Immigration and Customs Enforcement, Office of Professional Responsibility, (b)(6), (b)(7)(C) and (b)(6), (b)(7)(C) to Bill Conroy, a managing reporter for the San Antonio (b)(6), (b)(7)(C) was retaliatory and constituted an abuse of authority.

10. CASE OFFICER (Print Name & Title)

(b)(6), (b)(7)(C)

11. COMPLETION DATE

11-JUN-2007

14. ORIGIN OFFICE

ICE OPR Special Investigations Unit

12. APPROVED BY (Print Name & Title)

(b)(6), (b)(7)(C)
Supervisor

13. APPROVED DATE

11-JUN-2007

15. TELEPHONE NUMBER

No Phone Number

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DEPARTMENT OF HOMELAND SECURITY

1. CASE NUMBER

200505186

PREPARED BY

[REDACTED]

REPORT OF INVESTIGATION
CONTINUATION

2. REPORT NUMBER

HB 4200-01 (37), Special Agent Handbook

001

10. NARRATIVE

Details of Investigation:

On June 8, 2005, the Joint Intake Center, Washington, D.C., received a copy of a letter written by [REDACTED] National President of the Federal Hispanic Law Enforcement Officers Association (FHLEOA). In his letter, addressed to acting Department of Homeland Security (DHS) Inspector General Richard Skinner, DHS Secretary Michael Chertoff and others, Mr. [REDACTED] alleges that a visit by U.S. Immigration and Customs Enforcement (ICE), Office of Professional Responsibility (OPR), [REDACTED] and [REDACTED] to Bill Conroy, a managing reporter for the San Antonio [REDACTED] was retaliatory and constituted an abuse of authority. According to [REDACTED] (b)(6), (b)(7)(c) s letter, the purpose for [REDACTED] and [REDACTED] (b)(6), (b)(7)(c) s visit was to intimidate certain unknown federal whistleblowers who made unspecified disclosures to the press. Aside from the mere fact that the agents' presence was unwanted, [REDACTED] (b)(6), (b)(7)(c) s letter does not articulate specific acts or behavior on the part of agents that would rise to the level of official misconduct. Mr. [REDACTED] (b)(6), (b)(7)(c) s letter is reproduced in its entirety in the previous report (ROI #1).

On June 4, 2007, [REDACTED] and [REDACTED] (b)(6), (b)(7)(c) interviewed [REDACTED] in Charge (ASAC), OPR, San Antonio, TX (OPR/San Antonio). [REDACTED] was questioned concerning his knowledge of actions taken by [REDACTED] and [REDACTED] in connection with their contact with reporter Bill Conroy during May 2005.

[REDACTED] (b)(6), (b)(7)(c)

The memorandum was provided to reporter Conroy who in turn posted a portion of the memorandum on the website narcosphere.narconews.com.

[REDACTED] (b)(6), (b)(7)(c)

After making an unsuccessful attempt to contact reporter Conroy at his residence, [REDACTED] (b)(6), (b)(7)(c) and [REDACTED] (b)(6), (b)(7)(c) contacted Conroy at his place of business. [REDACTED] (b)(6), (b)(7)(c) as expected, Conroy declined to



DEPARTMENT OF HOMELAND SECURITY

REPORT OF INVESTIGATION
CONTINUATION

HB 4200-01 (37), Special Agent Handbook

1. CASE NUMBER

200505186

PREPARED BY

(b)(6), (b)(7)

2. REPORT NUMBER

001

10. NARRATIVE

answer the agents' questions. The SSAs then departed Conroy's office.

(b)(6), (b)(7)

(b)(6), (b)(7)

A search of case law by the Office of the Principal Legal Advisor revealed no legal restrictions prohibiting law enforcement officers from talking to members of the press who are potential witnesses in an investigation.

Investigation indicates [redacted] contacted reporter Conroy in furtherance of an official investigation being conducted by the OPR San Antonio office and in compliance with a proper directive to do so given by [redacted]

This investigation is closed.



DEPARTMENT OF HOMELAND SECURITY

1. CASE NUMBER

200505186

PREPARED BY

[REDACTED]

REPORT OF INVESTIGATION
Exhibit List

2. REPORT NUMBER

HB 4200-01 (37) Special Agent Handbook

001

None