



**Homeland
Security**

June 15, 2020

MEMORANDUM FOR: Mark A. Morgan
Acting Commissioner
U.S. Customs and Border Protection

Scott K. Falk
Chief Counsel
U.S. Customs and Border Protection

FROM: Cameron P. Quinn For (b)(6)
Officer
Office for Civil Rights and Civil Liberties

(b)(6)

Assistant General Counsel, Legal Counsel Division
Office of the General Counsel

SUBJECT: Invalidating F1 Visas of Iranian Nationals
Complaint Nos. 20-04-CBP-0347,
20-04-CBP-0409, 20-04-CBP-0435,
20-05-CBP-0359, 20-05-CBP-0384, and
20-05-CBP-0389

The Office for Civil Rights and Civil Liberties (CRCL) has opened complaints alleging that United States Customs and Border Protection (CBP) has violated civil rights or civil liberties by invalidating F1 student visas belonging to applicants from Iran, applying a five-year bar to admission to the applicants, and removing an applicant from the United States in violation of a court order, among other allegations. In this memorandum, CRCL notifies you of the complaints and describes the allegations, informs you that CRCL will retain these complaints for investigation, and explains how CRCL will work with CBP during this investigation.

ALLEGATIONS

In January and February 2020, CRCL received complaints alleging that the actions described above occurred on January 10-11, 2020, at Hartsfield Jackson International Airport (ATL) in Atlanta, Georgia, on August 19, September 18, October 6, and December 22, 2019, and January 20-21, 2020, and other unspecified dates, at Boston Logan International Airport (BOS), in Boston, Massachusetts, and on December 13, 2019, at Los Angeles International Airport (LAX), in Los Angeles, California.

The allegations in these complaints fall into the following categories: (1) CBP targeted and referred to secondary inspection Iranian nationals who were applying for admission to the United States using valid F1 visas, discriminating against these individuals based on their religion and national origin; (2) CBP subjected these individuals to interrogations that were alleged to be abusive or derogatory, regarding the applicants' religious and political beliefs; (3) CBP subjected these individuals to lengthy detentions, without providing the applicants telephone calls or other required processes, or adequate food and water; (4) CBP searched the electronic devices of applicants without justification; (5) CBP made legally flawed inadmissibility findings, wrongly invalidated F1 visas, placed these individuals in expedited removal, and wrongly applied a five-year bar to admission; (6) CBP provided documents or records of applicants' questioning that were inaccurate or fabricated, or did not contain the requisite signatures, or CBP failed to provide applicants with copies of their paperwork; and (7) CBP allegedly removed an individual in violation of an order of the United States District Court for the District of Massachusetts staying removal.

Specific complaint allegations include the following:

Complaint 20-04-CBP-0347

On January 30, 2020, CRCL received correspondence from (b)(6) of the Harvard Immigration and Refugee Clinic on behalf of (b)(6) (b)(6). Ms. (b)(6), an Iranian national, alleged that she arrived at Boston Logan International Airport on September 18, 2019, on an F1 visa to begin studying for a Masters Degree at Harvard's Divinity School. Ms. (b)(6) alleged that CBP wrongly detained her, and over the course of eight hours interrogated her in a "discriminatory and arbitrary" manner "regarding her religious and political beliefs and opinions about political groups and events, which lacked any relevance to the ground of inadmissibility invoked." Ms. (b)(6) alleged that CBP forced her to sign documents that she did not understand, which she was not given the opportunity to review, and which contained information that was untrue. According to the allegations, "Ms. (b)(6) alleged responses to the CBP Officer's questions, as written in the Form I-867A, do not reflect the statements she actually made to CBP. Ms. (b)(6) (b)(6) was not provided an opportunity to review the written statement to ensure that the contents of Form I-867A accurately reflected her responses. If she had read, or been read, the statements typed on Form I-867A, she would have corrected the erroneous information. Multiple errors and omissions in the form reflect CBP's failure to read or have read to Ms. (b)(6) her statements on the I-867A, and failure to record her responses on the Form I-867B Record of Sworn Statement as required by 8 C.F.R. § 253.3(b)(2)(i)." Additionally, Ms. (b)(6) alleged that CBP forced her to sign a legally flawed Expedited Removal order without any documentation or information to support a finding of immigrant intent and barred her from entering the U.S. for five years. Relatedly, Ms. (b)(6) claimed that CBP refused to communicate with staff at the Harvard International Office, which issued Ms. Emami Arandi her I-20, the Certificate of Eligibility for Nonimmigrant Student Status required to obtain an F-1 visa. Finally, Ms. (b)(6) alleged that CBP took her laptop and cell phone, searched them, and retained them while she was in CBP custody and that she did not have the opportunity to contact her family and inform them about what had happened for 48 hours.

20-04-CBP-0409

On January 16, 2020, CRCL received correspondence from the National Iranian American Council (NIAC) regarding “an increasing number of reports of Iranian F1 students (& one F2) being subjected to Expedited Removal (ER) by CBP at ports of entry.” NIAC alleged that CBP is referring the Iranian students for “secondary questioning” in which they are “forced to answer questions about their employment history, education, past political affiliations, and former military services. Many, if not all, of these students were entering the United States to pursue Masters’s [sic] degrees or Ph.Ds in the sciences or in energy.” NIAC provided several articles to supplement their correspondence, including an article from the *Guardian* dated January 14, 2020, regarding (b)(6), a 31-year-old Ph.D. student from Iran who had helped design Iran’s first portable ECG (electrocardiogram) device. The *Guardian* reported that on December 13, 2019, after Mr. (b)(6) arrived at Los Angeles International Airport (LAX), CBP detained, searched and questioned him before removing him to Iran. The *Guardian* article reported that as of January 14, 2020, it had identified at least 10 such incidents, of which 7 occurred at Boston Logan. The article also reported that several of the students deported from Boston Logan described the screening as aggressive and abusive. The article reported that all of the students denied entry in Boston were removed and barred from entering the United States for five years. Multiple students were quoted in the article as saying that CBP gave them records of their questioning that were partly inaccurate or fabricated, while others were put on planes back to Iran without a copy of the paperwork.

Complaint 20-04-CBP-0435

On January 20, 2020, CRCL received correspondence from (b)(6) Senior Staff Attorney at the American-Arab Anti-Discrimination Committee (ADC) on behalf of (b)(6) (b)(6), a citizen of Iran and an undergraduate student of Mathematics and Economics at Northeastern University who had been studying in the United States on an F-1 visa. Mr. (b)(6) alleged that CBP detained Mr. (b)(6) at Boston Logan on January 20, 2020. On January 24, 2020, CRCL received additional correspondence from Mr. (b)(6), in which he alleged that on January 20, 2020, Judge Richard Stearns of the United States District Court for the District of Massachusetts issued a writ of habeas corpus ordering CBP to stay Mr. (b)(6) deportation for two days, which CBP ignored. According to reports, Mr. (b)(6) had been in the United States previously for two years before returning home to Iran to visit his family.

On February 13, 2020, CRCL received additional correspondence regarding Mr. (b)(6) (b)(6) from (b)(6) of Graves & Doyle, and Susan Church, of Demissie & Church. These correspondences contained allegations identical to those described above, as well as additional information. Specifically, Ms. (b)(6) alleged that CBP issued “legally unsupportable inadmissibility finding[s] and expedited removal order;” that the CBP Officer refused to include his name on the expedited removal order; that CBP Officers interrogated Mr. (b)(6) in a threatening and uncivil manner, focusing on his “personal religious and political belief [that] lacked any relevance to grounds of inadmissibility;” that CBP refused to communicate with Mr. (b)(6) attorneys, respond to congressional inquiries, or allow him to

communicate with them; and CBP removed Mr. (b)(6) from the United States in violation of a court order staying such removal.

Complaint 20-05-CBP-0359

On February 7, 2020, CRCL received correspondence from (b)(6) on behalf of her client (b)(6). Ms. (b)(6) stated that the U.S. Department of State granted Mr. (b)(6) an Iranian citizen, an F1 visa to study for a Ph.D. in electrical engineering at Northeastern University on April 12, 2019. Ms. (b)(6) stated that CBP admitted Mr. (b)(6) to the United States on three occasions prior to his October 6, 2019, application for admission: his first entry on April 28, 2019, to commence his studies and two subsequent entries on August 17, 2019, and September 17, 2019, when he returned from Canada. Ms. (b)(6) stated that on October 1, 2019, Mr. (b)(6) departed Boston Logan to attend a conference in Paris; he returned to the United States on October 6, 2019, at Boston Logan. Ms. (b)(6) alleged that at that time CBP targeted Mr. (b)(6) for mistreatment because of his Iranian heritage. Specifically, Ms. (b)(6) claimed that during that encounter CBPOs made legally flawed inadmissibility findings against Mr. (b)(6) under INA § 212(a)(7)(A)(i)(I) and § 212(a)(6)(C)(i); and wrongly entered a removal order against him under INA § 235(b); inappropriately tailored “inadmissibility findings to subject Mr. (b)(6) to non-reviewable, non-appealable expedited removal; failed to completely document his case; failed to inform him of his procedural rights” “in violation of the controlling regulation at 8 C.F.R. § 235.3(b)(2)(i) and CBP’s own guidance”; interrogated him in a coercive manner; and refused “to rescind the removal order when presented with evidence . . . , leaving Mr. (b)(6) wrongfully subject to a five-year bar to reentry.” Additionally, Ms. (b)(6) alleged that Mr. (b)(6) asked to contact a friend who had come to pick him up at the airport, a request which the CBP officer denied.

Complaint 20-05-CBP-0384

On January 30, 2020, CRCL received correspondence from (b)(6) of the Council on American-Islamic Relations (CAIR), which was sent on January 11, 2020, regarding outreach by a professor at Georgia Institute of Technology (“Georgia Tech”) who was concerned that his student (b)(6) an Iranian national, had been in CBP custody for 12 hours. Ms. (b)(6) previously had been admitted to the United States on an F1 visa and was enrolled in a graduate degree program at Georgia Tech. On February 4, 2020, CRCL received additional correspondence from Mr. (b)(6) alleging that CBP detained Ms. (b)(6) (b)(6) at Hartsfield-Jackson International Airport in Atlanta (ATL) on January 11, 2020, following her winter break in Tehran, Iran. Mr. (b)(6) alleged that CBP officers and a plain clothes officer questioned her for hours, invalidated her F1 visa, denied her readmission to the United States, and ordered her deported with a five-year bar to reentry. Mr. (b)(6) alleged that while she was in CBP custody, CBPOs forced Ms. (b)(6) to remove her hijab, subjected her to a full body search, denied her access to her phone, locked her in a cell, failed to provide her food and water, and threatened her with handcuffs.

Complaint 20-05-CBP-0389

On February 18, 2020, CRCL received correspondence from (b)(6) on behalf of his client (b)(6). Ms. (b)(6) alleged that “Mr. (b)(6) was specifically targeted by CBP” based on his Iranian heritage and Muslim faith, and that CBP’s conduct was part of a larger pattern. Ms. (b)(6) also alleged that CBP found Mr. (b)(6) inadmissible under INA 212(a)(7) as a pretext because it is non-reviewable, despite the fact that Mr. (b)(6) did not offer any answers indicating that he had immigrant intent, and there is no allegation or information that Mr. (b)(6) would be likely to overstay his visa. Lastly, Ms. (b)(6) also alleged that CBP’s decision to issue an order of expedited removal rather than withdrawing his application for admission was arbitrary and contrary to law.

Specifically, Ms. (b)(6) stated that on August 13, 2019, the U.S. Department of State issued Mr. (b)(6) “an F-1 student visa in order to pursue a Ph.D. in Materials Science and Engineering at Worcester Polytechnic Institute (‘WPI’) in Worcester, Massachusetts. Mr. (b)(6) alleged that upon his arrival to the United States, on August 19, 2019, at Boston Logan, CBP officers referred him to secondary inspection “where he was subject to lengthy, aggressive, and demeaning questioning.” Mr. (b)(6) also alleged that during his lengthy inspection he had access to water, but not food or sleep, and was told it was too late to call his advisor. During the same encounter, Mr. (b)(6) alleged that CBP asked him “leading and convoluted questions” about his employer and its relation to sanctioned entities to which he did not know the answers, but that he felt intimidated and coerced into providing inaccurate responses. Mr. (b)(6) also alleged that “the I-867A does not reflect this coercion,” and that CBP forced him to sign several papers that he did not understand or have the opportunity to review prior to his removal.

CRCL

CRCL Mission. CRCL supports the Department’s mission to secure the Nation while preserving individual liberty, fairness, and equality under the law. CRCL integrates civil rights and civil liberties into all of the Department’s activities:

- Promoting respect for civil rights and civil liberties in policy creation and implementation by advising Department leadership and personnel, and state and local partners;
- Communicating with individuals and communities whose civil rights and civil liberties may be affected by Department activities, informing them about policies and avenues of redress, and promoting appropriate attention within the Department to their experiences and concerns;
- Investigating and resolving civil rights and civil liberties complaints filed by the public regarding Department policies or activities, or actions taken by Department personnel; and,
- Leading the Department’s equal employment opportunity programs and promoting workforce diversity and merit system principles.

CRCL authorities. Under 6 U.S.C. § 345 and 42 U.S.C. § 2000ee-1, CRCL is charged with investigating and assessing complaints against DHS employees and officials of abuses of civil rights, civil liberties, and profiling on the basis of race, ethnicity, or religion. The procedures for

our investigations and the recommendations they may generate are outlined in DHS Management Directive 3500.

Access to information. More particularly, 42 U.S.C. § 2000ee-1(d) grants CRCL access to the “information, material, and resources necessary to fulfill the functions” of the office, including the complaint investigation function. Management Directive 3500 further authorizes CRCL to:

- “Notify[] the relevant DHS component(s) involved of the matter and its acceptance by CRCL, and whether the matter will be handled by CRCL or by the component organization”;
- “Interview[] persons and obtain[] other information deemed by CRCL to be relevant and require[e] cooperation by all agency employees”; and,
- “Access[] documents and files that may have information deemed by CRCL to be relevant.”

Reprisals forbidden. In addition, 42 U.S.C. § 2000ee-1(e) forbids any Federal employee to subject a complainant or witness to any “action constituting a reprisal, or threat of reprisal, for making a complaint or for disclosing information to” CRCL in the course of this investigation.

This memorandum and its accompanying request for information are issued pursuant to these authorities.

Privilege and required transparency. Our communications with CBP personnel and documents generated during this review, particularly the final report, will be protected to the maximum extent possible by attorney-client and deliberative process privileges. Under 6 U.S.C. § 345(b), however, we submit an annual report to Congress—also posted on CRCL’s website—that is required to detail “any allegations of [civil rights/civil liberties] abuses . . . and any actions taken by the Department in response to such allegations.”

We look forward to working with your staff on this matter and will report back to you our findings and recommendations.

SCOPE OF REVIEW

The purpose of our review is to determine if the factual allegations in the complaints can be verified or disproven; if the facts that we find suggest that the Constitution, a Federal statute, or a Departmental policy has been violated; and what steps if any should be taken by CBP to address the complaints, both individually (if the problem is ongoing) and as a matter of policy. This review also will examine the additional areas identified above for similar concerns related to protection of civil rights and civil liberties.

QUESTIONS PRESENTED

(b)(5)

INITIATING THE INVESTIGATION

CRCL has taken steps to begin its investigation of these complaints, which are assigned to Contract Support Investigator (b)(6)

We request that CBP schedule an initial discussion with (b)(6) as soon as possible to discuss this complaint and our plans to review this matter. We look forward to working together to determine the facts surrounding this matter and if appropriate, the best way forward. If you have any questions, please do not hesitate to contact (b)(6) (b)(6) by phone at (b)(6) (TTY) or by email at (b)(6) (b)(6)

Enclosure

Copies to:

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