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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

COUNCIL ON AMERICAN-ISLAMIC
RELATIONS–WASHINGTON,

Plaintiff,

v.

UNITED STATES CUSTOMS AND BORDER
PROTECTION, UNITED STATES
DEPARTMENT OF HOMELAND
SECURITY,

Defendants.

Case No. 2:20-cv-217

COMPLAINT

INTRODUCTION

1
2 This lawsuit challenges defendant U.S. Customs and Border Protection’s (CBP) refusal to
3 reveal a directive issued to CBP officers to detain and interrogate Iranian-Americans, among
4 others, upon returning to the United States. Despite detaining scores of Iranian-Americans
5 pursuant to this directive, CBP has repeatedly denied that the agency issued any such directive.
6 Pursuant to the Freedom of Information Act (FOIA), plaintiff Council on American-Islamic
7 Relations–Washington (CAIR) seeks to ensure that CBP remains accountable for taking such
8 actions.

9 Between January 4 and January 5, 2020, dozens of persons of Iranian heritage returning
10 to the United States after visiting British Columbia, including U.S. citizens and lawful permanent
11 residents, were detained, questioned and held for hours by CBP officers at the Blaine Port of
12 Entry in Blaine, Washington. Some were held through most of the night, others were held for
13 hours with their small children. They were detained, not based on concerns that they were
14 unauthorized to enter the country nor based on concerns that they were transporting contraband,
15 but instead, based solely on their national origin—a practice that runs afoul of this country’s
16 most basic principles.

17 The apparent detention of U.S. citizens and lawful permanent residents based only on
18 their national heritage prompted an immediate outcry from lawmakers and advocates and
19 generated substantial media attention. Despite the detentions of several dozen Iranians, as well as
20 other individuals born in select countries in the Middle East, CBP officials denied that a directive
21 had been issued ordering that these persons be detained for further screening. Instead, the agency
22 explicitly disclaimed that U.S. citizens and lawful permanent residents were being held or that
23 orders had been given to target such individuals. According to a statement issued by CBP’s press
24

1 nationwide. During the course of this call, CBP headquarters urged its field offices to exercise
2 additional vigilance in light of the attack.

3 9. Upon information and belief, CBP's Seattle Field Office, which oversees dozens
4 of ports of entry across much of the northern United States, subsequently issued a directive to all
5 ports of entry under the Field Office's supervision that effectively mandated the detention of all
6 individuals from Palestine, Lebanon, and Iran at U.S. ports of entry.

7 10. Specifically, the purported directive states that the Tactical Analytical Unit of the
8 Seattle Field Office would "conduct vetting" on "[a]ll persons" who were born in, travelled to, or
9 were citizens of Palestine, Lebanon, or Iran.

10 11. The directive went on to state that these individuals should be subjected to
11 "secondary procedures," which refers to CBP's practice of detaining individual for additional
12 vetting prior to permitting (or denying) their entry to the United States.

13 12. To conduct this vetting, the directive required CBP officers to question detained
14 individuals regarding, among other matters, their connections to the Iranian military or their
15 religious faith.

16 13. This directive quickly manifested itself in the form of the detention of dozens of
17 Iranian individuals at the Blaine Port of Entry in Blaine, Washington on January 4 and into the
18 morning hours of January 5, 2020. Media reports have indicated that between 60 to 200 people
19 were detained at ports of entry in Washington State, primarily at the Blaine Port of Entry.

20 14. Accounts from the Iranian-American citizens and lawful permanent residents
21 detained at the Blaine Port of Entry indicate that many individual were held for several hours,
22 some in excess of ten hours. Moreover, many individuals were detained with their young
23 children.

1 15. These accounts also demonstrate that CBP officers carried out the questioning
2 that the directive required. Reports indicate that CBP officer questioned detainees regarding their
3 political views, allegiances, personal histories, and family members, among other topics.

4 16. Individual accounts demonstrate that after they were questioned, the individuals
5 were held until the attending CBP officers received instructions from their supervisor authorizing
6 release.

7 17. CBP's national heritage-based detentions at the Blaine Port of Entry immediately
8 became the subject of public outcry from both advocates and lawmakers. They also became the
9 subject of several media reports, which interviewed individuals who specifically recounted and
10 described the traumatic experience they had suffered when attempting to re-enter the United
11 States.

12 18. Despite the widespread outcry and credible media reports, CBP flatly denied that
13 any wrongdoing had taken place or that it had issued any instruction or a directive commanding
14 officers to detain all Iranian individuals. On Twitter, the agency claimed that "Social media posts
15 that CBP is detaining Iranian-Americans and refusing their entry into the U.S. because of their
16 country of origin are false. Reports that DHS/CBP has issued a related directive are also false."
17 CBP's press secretary issued a statement to the same effect.

18 19. CBP's claims are not credible, as firsthand detention accounts and subsequent
19 media reporting make clear. In light of CBP's denials, on January 8, 2020, Plaintiff CAIR filed a
20 Freedom of Information Act Request, asking the agency to produce "all directives, orders,
21 guidance, briefings, instructions, musters, e-mail, other electronic communications or any other
22 communications, whether issued verbally or in writing, issued by the Seattle Field Office
23 Director or any other Department of Homeland Security (DHS) or Customs and Border
24

1 Protection (CBP) official, officer, or employee to any CBP officer, port director, or CBP Seattle
2 Field Officer or Blaine Sector or Blaine Port of Entry employee regarding the screening of
3 individuals of Iranian heritage or any other changes in screening or secondary inspection
4 procedures between January 1, 2020, and January 8, 2020, including, but not limited to, any
5 changes based on the ‘current threat environment,’ or the need for ‘enhanced vigilance,’
6 ‘additional caution,’ or an ‘enhanced posture.’”

7 20. The request additionally asked for CBP “directives, orders, guidance, briefings,
8 instructions, e-mails, other electronic communications” that were produced “in response to the
9 reports of secondary screenings, vetting, detention, or denial of entry or exit of individuals of
10 Iranian heritage at the Blaine Port of entry, issued between January 3, 2020 and January 8,
11 2020.”

12 21. Counsel for CAIR received an email acknowledging the information request,
13 which was filed through CBP’s online portal, on January 9, 2020.

14 22. Under the Freedom of Information Act, CBP had 20 business days to respond to
15 this request. *See* 5 U.S.C. § 552(a)(6). CBP’s response was therefore due by February 7, 2020.
16 *See* 5 U.S.C. § 552(a)(6)(a)(i). CBP has not provided a request or asked for an extension of the
17 deadline within that timeframe.

18 23. A timely response to CAIR’s request is especially appropriate under the
19 circumstances presented here. Credible, firsthand media accounts and follow-up reporting have
20 demonstrated that CBP officials designated U.S. citizens and lawful permanent residents as
21 categorical subjects of detention based on their national heritage. CBP categorically denied such
22 claims.

1 24. Events since CAIR’s request only further underscore the important and pressing
2 nature of CAIR’s request. On January 29, 2020, an article in Blaine’s newspaper, *The Northern*
3 *Light*, published an copy of the purported directive at issue in this case. CBP has declined to
4 verify that the document is genuine, despite previously disavowing the existence of any such
5 directive. *See* Patrick Grubb, “Source Provides Directive Telling CBP Officers to Detain Iranian-
6 born Travelers,” *The Northern Light*, Jan. 29, 2020,
7 [https://www.thenorthernlight.com/stories/source-provides-directive-telling-cbp-officers-to-](https://www.thenorthernlight.com/stories/source-provides-directive-telling-cbp-officers-to-detain-iranian-born-travelers,9315)
8 [detain-iranian-born-travelers,9315](https://www.thenorthernlight.com/stories/source-provides-directive-telling-cbp-officers-to-detain-iranian-born-travelers,9315).

9 25. A few days later, on February 3, 2020, U.S. Representative Pramila Jayapal
10 issued a statement after meeting with Seattle Field Office Director Adele Fasano. According to
11 the statement, CBP finally admitted at the meeting that “there was indeed a breach of protocol
12 and . . . a large number of Iranian American were inappropriately targeted.” Press Release, U.S.
13 Representative Pramila Jayapal, Jayapal Statement of Meeting with CBP Seattle Field Office
14 Leadership (Feb. 3, 2020).

15 26. However, despite CBP’s admission of mistakes, Seattle Field Office leadership
16 has continued to disavow responsibility for unlawful detentions. A Seattle Times article
17 published the same day noted that Director Fasano “only learned about the incidents through
18 news reports.” Nicole Brodeur, “Jayapal: CBP Admits to ‘Enormous Mistakes’ in Border Stops
19 of Iranian Americans, Others from Middle East,” *The Seattle Times*, Feb. 3, 2020.

20 27. As a result, critical questions remain regarding the detentions that took place on
21 January 4 and 5, 2020. CAIR’s request thus remains an important tool to ensure that an accurate
22 and full public accounting of CBP’s actions occur.

1 28. CAIR has the capacity and intent to disseminate widely the requested information
2 to the public. As described above, CAIR-WA is state chapter of a national organization that
3 seeks to defend and advocate on behalf of the rights of Muslim communities in the United States.
4 As a national organization, CAIR is well-equipped to provide public access to released
5 documents and work with media outlets to disseminate any responsive materials.

6 **CLAIM FOR RELIEF**

7 **Violation of Freedom of Information Act**
8 **(Failure to Provide Timely Response to FOIA Request)**

9 29. Plaintiff repeats and re-alleges the allegations contained in the preceding
10 paragraphs of this complaint as if fully set forth herein.

11 30. Defendants are obligated under 5 U.S.C. § 552(a)(3) to “promptly” make
12 available agency records requested by any person.

13 31. Under 5 U.S.C. § 552(a)(6)(A)(i), Defendants must decide within 20 days of a
14 request whether the agency will produce responsive documents.

15 32. An extension of this timeline is permitted only “[i]n unusual circumstances”
16 where the agency provides “written notice.” Such notices allow the agency to extend the
17 response deadline for ten additional working days. 5 U.S.C. § 552(a)(6)(B)(i); *see also, e.g.,*
18 *Hajro v. U.S. Citizenship & Immigration Servs.*, 811 F.3d 1086, 1092 (9th Cir. 2016) (“The
19 statutory time limits require an agency to determine within twenty days whether to comply with
20 a FOIA request or, in the alternative, notify the requester of any ‘unusual circumstances’
21 requiring an extension in responding to the request.”). Defendants have not provided any such
22 notice here.

23 33. Plaintiff has exhausted its administrative remedies by making its request and
24 waiting twenty days for a response. 5 U.S.C. § 552(a)(6)(C); *Hajro*, 811 F.3d at 1092.

1 34. Accordingly, Defendants have violated the Freedom of Information Act, and
2 Plaintiff is entitled to relief requiring the agency to provide immediately a response to its request
3 and production of records that the agency plans to release.

4 **PRAYER FOR RELIEF**

5 WHEREFORE, Plaintiff prays that this Court grant the following relief:

- 6 a. Assume jurisdiction over this matter;
- 7 b. Order Defendants to immediately produce all corresponding documents and
8 records responsive to Plaintiff's FOIA Request;
- 9 c. Award Plaintiff attorney's fees and costs under the 5 U.S.C. § 552(a)(4)(E) and on
10 any other basis justified under law; and
- 11 d. Grant any other and further relief that this Court deems just and proper.

12 DATED this 12th day of February, 2020.

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