

**FOIA REQUESTS AND OTHER BACKGROUND CHECKS: A PRACTICAL GUIDE
TO FILING RECORDS REQUESTS IN IMMIGRATION CASES**

1ST EDITION

TABLE OF CONTENTS

Chapter 1	Introduction to Records Requests	
§ 1.1	Why Submit a Records Request?	1-1
§ 1.2	What Records Can I Get?.....	1-2
§ 1.3	Are There Any Risks in Filing a Records Request?.....	1-6
§ 1.4	How Do I Use This Manual?.....	1-8
Chapter 2	Criminal Background Checks	
§ 2.1	Overview	2-1
§ 2.2	Why Do a Criminal Background Check.....	2-1
§ 2.3	What Is a Criminal Record?	2-3
§ 2.4	Understanding Criminal Databases	2-3
§ 2.5	FBI Background Checks	2-7
§ 2.6	State Background Checks.....	2-12
§ 2.7	Court and Other Specific Records.....	2-15
§ 2.8	Juvenile Records	2-15
Chapter 3	FOIA Requests to DHS	
§ 3.1	Introduction	3-1
§ 3.2	USCIS.....	3-3
§ 3.3	ICE	3-5
§ 3.4	OBIM	3-6
§ 3.5	DHS Online Request Submission Form	3-7
§ 3.6	CBP	3-7
§ 3.7	Fees and Payments	3-9
§ 3.8	Delays and Processing.....	3-11
§ 3.9	Expedited Requests	3-13
§ 3.10	Track 3 Processing	3-14
§ 3.11	Late FOIA Responses.....	3-15
§ 3.12	Incomplete or Denied Requests.....	3-16
§ 3.13	District Court Appeals.....	3-19
§ 3.14	Instructions for Filling Out a FOIA Request on Form G-639	3-20
Chapter 4	Other Federal Agency Requests	
§ 4.1	Introduction	4-1
§ 4.2	U.S. Department of State.....	4-1
§ 4.3	U.S. Department of Justice.....	4-10
§ 4.4	U.S. Armed Forces	4-15
§ 4.5	Best Practices	4-19

Chapter 5	Special Considerations for Youth: Accessing ORR, Juvenile Delinquency, and Gang Database Records	
§ 5.1	Overview	5-1
§ 5.2	Obtaining Office of Refugee Resettlement (ORR) Files.....	5-1
§ 5.3	Obtaining Juvenile Records and Confidentiality Issues	5-5
§ 5.4	Obtaining Information about Gang Databases	5-11
Chapter 6	FOIA Considerations for Respondents in Removal Proceedings	
§ 6.1	Introduction to Records Request Procedures in Removal Proceedings	6-1
§ 6.2	Utilizing FOIA Requests to Obtain Records from DHS in Removal Proceedings	6-1
§ 6.3	Expedited Processing for People in Immigration Court.....	6-3
§ 6.4	FOIA Requests to the Executive Office for Immigration Review	6-3
§ 6.5	Personal Review of Record of Proceedings at EOIR Office	6-8
§ 6.6	Alternative to DHS FOIA Request in Removal: INA 240(c)(2)(b) and <i>Dent v. Holder</i>	6-9
§ 6.7	Utilizing Procedural Due Process to Access “A” File and Other Government Documents.....	6-14
§ 6.8	Utilizing <i>Dent</i> to Request a Continuance of Removal Proceedings Pending FOIA Request.....	6-18
§ 6.9	Requesting an Immigration Court Subpoena for Documents.....	6-18
§ 6.10	When You Can’t Wait for the FOIA	6-20
Chapter 7	FOIA Appeals and Federal Litigation	
§ 7.1	The NTA and the Initiation of Removal Proceedings	7-1
§ 7.1	Challenging an Agency’s Response to a FOIA Request	7-1
§ 7.2	Exemptions.....	7-5
§ 7.3	Administrative Appeals and Alternatives to Litigation	7-11
§ 7.4	Federal Court Litigation	7-12
Index of Appendices		
Appendix A	Excerpts from Roadmap to Re-Entry: Background Information on Criminal Records	
Appendix B	Sample FBI Records	
Appendix C	Sample State Records	
Appendix D	USCIS FOIA Guide	
Appendix E	USCIS Chart on DHS Records Locations	
Appendix F	Sample Requests for USCIS Track 3 Processing	
Appendix G	Sample USCIS FOIA Appeals	
Appendix H	Sample CBP FOIA Request	
Appendix I	Sample CBP FOIA Appeal	
Appendix J	Sample EOIR FOIA Request	
Appendix K	Sample DOS FOIA Appeal	
Appendix L	Chart of Military Service Records Locations	

FOIA Requests and Other Background Checks
July 2017

Appendix M	Sample Email to ORR Requesting Records, and Authorization for Release of Records
Appendix N	Sample Screening Questions for Gang Allegations
Appendix O	Template Letter to Law Enforcement to Obtain Information about an Individual's Placement in CalGangs
Appendix P	EOIR Certification of Identity Form
Appendix Q	Sample Subpoena: Immigration Court Practice Manual
Appendix R	ICE Response to <i>Dent v. Holder</i> Request
Appendix S	Request to ICE for Asylum Notes
Appendix T	Sample ICE FOIA Response Letter
Appendix U	Sample DHS Advocacy FOIA
Appendix V	Sample Fee Waiver Administrative Appeal
Appendix W	Sample Federal Court FOIA Complaint
Appendix X	Sample Intake Questionnaire

