



**U.S. Customs and
Border Protection**

OT: RR: FAPL
H104696MBP

Mr. John Althen
Judicial Watch
501 School Street, Suite 725
Washington, DC 20024

AUG 17 2010

RE: Freedom of Information Act Appeal; File No. 2010F05402

Dear Mr. Althen:

This letter responds to the administrative appeal you filed with this office after you were unsatisfied with the response provided to you by Elissa Kay, Acting Director – FOIA Division. In a letter dated January 26, 2010, you requested “all statistical records concerning human smuggling in the Tucson Sector of the USCBP for Fiscal Years 2008 and 2009.”

On March 10, 2010, explaining that Customs and Border Protection (CBP) does not maintain statistics specifically to human smuggling, Ms. Kay provided you with statistics related to all apprehensions made in Tucson Sector during those years. You appealed that decision on April 23, 2010, referencing two recent news articles – one from the *New York Times* and one from the *Orange County Register* – that led you to find it “highly unlikely that CBP maintains no records of statistics specifically on human smuggling related apprehensions.”

Specifically, the *New York Times* article stated that:

“In fiscal 2009, 332 Chinese immigrants were caught in the Border Patrol’s Tucson sector, up from 30 the previous year, Border Patrol figures showed. And in what could be a sign of a record-breaking pace for this year, agents in the Border Patrol’s Tucson sector arrested 281 Chinese immigrants from Oct. 1 to Dec. 31, the first quarter of the current fiscal year.”

The *Orange County Register* article noted that:

“In the fiscal year ending in September 2009, federal and other law enforcement authorities in San Diego arrested 430 illegal immigrants and U.S. citizens for drug and human smuggling, compared with 230 in the previous fiscal year, according to the agency's statistics.”

In light of these articles, both I and Matthew Pollack, another attorney in my office, revisited your request for human smuggling statistics in Tucson Sector. Because the Office of Border Patrol does not possess statistical reports related specifically to human smuggling, but instead can create statistical reports from a database of collected information, Mr. Pollack contacted you by telephone on Aug. 6, 2010 to identify which statistics your request targeted.

After several conversations with Mr. Pollack, you revised your request to include: (1) The total number of persons smuggled and apprehended in the Tucson Sector; (2) An estimated total number of persons smuggled (including those that crossed the border without apprehension); (3) The total number of smugglers identified; (4) The total number of smugglers arrested; (5) The total number of smugglers deported; (6) The total number of smugglers referred to US Attorney's Office for prosecution; (7) The total number of smugglers prosecuted by the US Attorney's Office; (8) The total number of OTMs ("Other Than Mexicans") smuggled and apprehended, by country of origin; (9) The total number of Special Interest Aliens smuggled and apprehended. You also requested the name of the database used to search for those requested statistics.

We have determined that the following statistics, culled from ENFORCE, are responsive to your request and fully releasable pursuant to the FOIA:

(1) **The total number of persons smuggled and apprehended in the Tucson Sector;**

FY2008: 81,860
FY2009: 70,328

(2) **An estimated total number of persons smuggled (including those that crossed the border without apprehension);**

Border Patrol does not maintain estimates regarding the total number of persons that crossed the border without apprehension. However, I do refer you to the Department of State's "Trafficking in Persons" report, published in June 2010, available at <http://www.state.gov/documents/organization/142979.pdf>, which may offer additional insight.

(3/4) **The total number of smugglers identified / arrested;**

FY2008: 1,437
FY2009: 963

Please note: Border Patrol does not distinguish between identifications and arrests.

(5) **The total number of smugglers deported;**

FY2008: 658
FY2009: 599

(6) **The total number of smugglers referred to U.S. Attorney's Office for prosecution;**

FY2008: 10,333
FY2009: 17,452

Border Patrol does not maintain specific statistics related to the total number of human smuggling cases referred to the Department of Justice. The statistics provided refer to all infractions referred to the Department of Justice by Border Patrol.

(7) **The total number of smugglers prosecuted by the US Attorney's Office;**

Once Border Patrol refers a case to the Department of Justice, it does not track the disposition of those referrals. As such, this data is unavailable.

- (8) **The total number of OTMs ("Other Than Mexicans") smuggled and apprehended, by country of origin;**

Citizenship	FY08	FY09
AFGHANISTAN	1	0
ALBANIA	0	1
ALGERIA	0	1
ARGENTINA	3	3
BANGLADESH	0	1
BELIZE	0	3
BOLIVIA	1	2
BRAZIL	5	3
BURMA	0	1
CHILE	4	2
CHINA, PEOPLES REPUBLIC OF	15	79
COLOMBIA	8	19
COSTA RICA	14	12
CUBA	2	2
CZECH REPUBLIC	0	1
DOMINICAN REPUBLIC	17	58
ECUADOR	534	380
EL SALVADOR	993	1,112
GEORGIA	5	7
GUADELOUPE	0	1
GUATEMALA	2,773	2,915
HONDURAS	353	516
INDIA	0	5
JAMAICA	1	1
KENYA	1	0
LEBANON	1	0
NEPAL	1	0
NICARAGUA	24	26
PAKISTAN	1	1
PANAMA	0	1
PARAGUAY	0	1
PERU	25	28
ROMANIA	6	27
TRINIDAD AND TOBAGO	0	1
TURKEY	2	0
UNKNOWN	6	3
URUGUAY	2	3
VENEZUELA	10	4
VIETNAM	1	0
YUGOSLAVIA	1	0
OTMs Total	4,810	5,220

- (9) **The total number of Special Interest Aliens smuggled and apprehended.**

FY2008: 5
FY2009: 3

In the event that you are dissatisfied with the disposition 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 the District where the agency records are situated, or in the United States District Court for the District of Columbia.

Sincerely,

A handwritten signature in cursive script, appearing to read "Shari Suzuki".

Shari Suzuki, Chief
FOIA Appeals, Policy and Litigation Branch