

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

SARAH SHERMAN-STOKES, LAILA
HLASS, and MARY YANIK,

Plaintiffs

v.

U.S. IMMIGRATION AND CUSTOMS
ENFORCEMENT,
500 12th Street, SW
Washington, D.C. 20536

Defendant.

Civil Action No. 1:24-cv-12533

COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

1. This is an action under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, and the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202.
2. Plaintiffs, Professors Sarah Sherman-Stokes of Boston University School of Law and Laila Hlass and Mary Yanik of Tulane Law School, are professors and researchers in immigration law and seek records from Defendant U.S. Immigration and Customs Enforcement (“ICE”) relating to ICE’s noncitizen detention practices, including both national records and records related to facilities it operates or uses within the area of responsibility of the New Orleans, Louisiana and Burlington, Massachusetts ICE Field Offices.
3. Defendant’s detention practices are a matter of significant public concern. The contours of the immigrant detention system, including the size, scope and demographics of detained immigrants, are a matter of current exigency to the American public. Specifically, prolonged detention of immigrants, as well as the relationship between private detention

companies, public facilities and ICE, have received extensive coverage in the media and in other publications.¹ Disclosure of the requested information will further Plaintiffs' academic research regarding immigration detention, and importantly, it will inform the public about pressing issues concerning immigration detention.

Jurisdiction and Venue

4. This Court has subject-matter and personal jurisdiction over this matter and may enter the relief requested pursuant to 5 U.S.C. §§ 552(a)(4)(B) and 552(a)(6)(C)(i). The Court also has further jurisdiction over this action and may provide additional relief requested pursuant to 28 U.S.C. §§ 1331, 2201(a), and 2202.

5. Venue lies in this district under 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1391(e), because Requester Sarah Sherman-Stokes resides in this district.

Parties

6. Plaintiff Sarah Sherman-Stokes is a Clinical Associate Professor of Law at Boston University School of Law, a professional school within Boston University, in Boston, Massachusetts. Professor Sherman-Stokes's research agenda is focused on immigration and asylum law, policy, and practice, including a focus on detention and deportation. Her scholarship has been published in the *Hastings Law Journal*, *Villanova Law Review*, *Denver Law Review*, *Indiana Law Review*, and the *Georgetown Immigration Law Journal*. Professor Sherman-Stokes

¹ See, e.g., Maria Sacchetti, "Inspector General, ICE Clash over Conditions at Immigration Detention Facility in New Mexico," *The Washington Post* (Mar. 18, 2022); Bill Keveney, "ICE Limits Migrants' Legal Rights, Raising Deportation Risk, ACLU Report Says," *USA Today* (June 9, 2022); Daniel Bush, "ICE Detains Ukrainians Seeking U.S. Asylum Amid Refugee Crisis," *Newsweek* (Mar. 16, 2022); Rosie Manins, "DHS Watchdog Rebukes Conditions at Ga. Detention Center," *Law 360* (July 7, 2022); Aditi Shah & Eunice Hyunhye Cho, Am. Civil Liberties Union, "ACLU Research Report: No Fighting Chance: ICE's Denial of Access to Counsel in U.S. Immigration Detention Centers" (2022).

speaks regularly with news media regarding asylum, detention and deportation issues and has published in *The Washington Post*, *USA Today*, and *The Hill*. She is a regular speaker at national and regional conferences on issues related to immigration.

7. Plaintiff Laila Hlass is a Clinical Professor of Law and Co-Director of the Immigrant Rights Clinic at Tulane Law School, a professional school located within Tulane University in New Orleans, Louisiana. Professor Hlass's research is focused on immigration law, policy, and practice, including immigration detention. Her scholarship has been published or is forthcoming in the *California Law Review*, *Georgetown Law Journal*, *American University Law Review*, and more. Professor Hlass regularly speaks and appears in the news regarding immigration law and detention and immigrant children, with publications in national news media, including *Slate*, the *Boston Globe*, and *Ms. Magazine*. Furthermore, she has presented at national webinars and workshops as well as published reports and a practice advisory for a national audience, including the American Immigration Lawyers Association, the national association of more than 16,000 attorneys and law professors who practice and teach immigration law, as well as the Immigrant Legal Resource Center, a national program that trains attorneys, paralegals, and community-based advocates and provides information to the media, elected officials and the public regarding immigration law.

8. Plaintiff Mary Yanik is a Clinical Associate Professor of Law and Director of the Immigrant Rights Clinic at Tulane Law School, a professional school within Tulane University, in New Orleans, Louisiana. Professor Yanik's research agenda is focused on immigration law and civil and constitutional rights, including rights of detained migrants and migrant workers. She has published in the *Hofstra Law Review* and the *Harvard Civil Rights and Civil Liberties Law Review*. She regularly speaks at conferences for the American Bar Association, continuing

legal education events held by local and federal bar associations, and trainings for anti-trafficking and immigrant and worker rights advocates.

9. Defendant ICE is an agency within the meaning of 5 U.S.C. § 552(f). ICE has possession, custody, and control of records responsive to Plaintiffs' FOIA request.

Statutory Framework

10. FOIA is designed to promote transparency and open government by providing any person a right to request federal agency records. 5 U.S.C. § 552(a)(3)(A).

11. The FOIA statute imposes strict deadlines on agencies to provide a response to FOIA requests. 5 U.S.C. § 552(a)(6)(A).

12. Agencies must comply with a FOIA request by issuing a determination within twenty working days after receipt of the request. 5 U.S.C. § 552(a)(6)(A)(i).

13. An agency is entitled to a ten-day extension of the twenty working day timeline if it provides a written notice to the requestor explaining that unusual circumstances warrant additional time. 5 U.S.C. § 552(a)(6)(B).

14. An agency must timely notify requestors of its determination and the reasons for it and, in the case of an adverse determination, the right to administratively appeal. 5 U.S.C. § 552(a)(6)(B)(ii).

15. FOIA requestors are deemed to have exhausted their administrative remedies if the agency does not comply with the statute's time limits. 5 U.S.C. § 552(a)(6)(C)(i).

Factual Background

16. On July 16, 2024, Plaintiffs submitted a FOIA request to ICE² seeking the following:

1. Records³ Concerning Detention⁴ History

These records already exist, as evidenced by other agency disclosures and records, and so this request does not seek the creation of new records. The specified timeframe, specified locations, and detailed requests ensure that the request is not overly broad.

a. Requestors seek responsive records in an electronic, machine-readable, native file format, with all metadata and load files. This workable electronic format could be Microsoft Excel or comma-separated values (CSV) files. If terms or codes are not in the form template nor publicly defined, please provide a glossary or other descriptive records containing definitions of acronyms, numerical codes, or terms contained in data⁵ responsive to this request. We request that you produce responsive materials in their entirety, including all attachments, appendices, enclosures, and/or exhibits. We also ask for any explanatory notes needed to make the data intelligible. Since this information is tracked within ICE's electronic databases, the agency can complete the request by performing automated queries, such that records can be obtained with reasonable effort.

² Plaintiffs submitted the request through the federal government's online SecureRelease Portal. *See* Ex. 1.

³ "In this request, the term 'Record(s)' includes, but is not limited to, all records or correspondence preserved in electronic (including metadata) or written form, such as letters, emails, documents, data, videotapes, audio tapes, faxes, files, guidance, guidelines, evaluations, instructions, analyses, agreements, notes, orders, policies, procedures, legal opinions, protocols, reports, rules, technical manuals, technical specifications, training manuals, studies, or any other record of any kind." [From Plaintiffs' original FOIA request, Ex. 1, "Definitions", p. 2.]

⁴ "In this request, the term 'Detention' or 'Detain' refers to the placement in custody of a noncitizen or individual suspected to be a noncitizen, based on purported violations of the Immigration and Nationality Act, into a local or state jail, or prison, not limited to Intergovernmental Service Agreement facilities. The term further refers to private contractual facilities, run or managed by private prison companies or corporations." [From Plaintiffs' original FOIA request, Ex. 1, "Definitions", p. 3.]

⁵ "In this request, the term 'Data' includes all terms and codes. For any data provided as responsive to the request, please provide a glossary or other descriptive records containing definitions of acronyms, numerical codes, or terms contained in data responsive to this request. We request that you produce responsive materials in their entirety, including all attachments, appendices, enclosures, and/or exhibits. We also ask for any explanatory notes needed to make the data intelligible." [From Plaintiffs' original FOIA request, Ex. 1, "Definitions", p. 3.]

b. Specifically we ask the ERO LESA Statistical Tracking Unit, or other applicable unit, office or component within ICE to provide Individualized, Disaggregated Data regarding each individual detained by ICE/ERO⁶ from fiscal year 2010 through the date the search is conducted, with the following fields⁷:

- i. Unique Identifier⁸
- ii. Birth Countries
- iii. Citizenship Countries
- iv. Race
- v. Ethnicity
- vi. Gender
- vii. Religion
- viii. Date of Arrest/Apprehension
- ix. State and city where arrest/apprehension occurred
- x. Initial arresting/apprehending agency (i.e., ICE, CBP, non-DHS entity such as sheriff deputy)
- xi. Age at Initial Book in
- xii. Initial Book In Date And Time
- xiii. Initial Intake detention facility name, city, and state
- xiv. Initial Detention Facility Code
- xv. Initial Intake Docket Control Office (DCO)
- xvi. Book-in date and time of each subsequent detention facility
- xvii. Each subsequent detention facility name, city, and state
- xviii. Each subsequent detention facility code
- xix. DCO of each subsequent detention facility
- xx. Book-out date and time of each subsequent detention facility
- xxi. Order of Detention
- xxii. Requested release/parole from detention (yes/no)
- xxiii. Release/parole decision (granted/denied)
- xxiv. Release reason associated with each detention facility
- xxv. Date of release
- xxvi. Transfer reason (if release reason = transfer)
- xxvii. Final release date

⁶ Footnote 2 in Plaintiffs' original FOIA request: "This includes facilities that detain immigrants for ICE, including those owned by, run by or contracted with ICE, or contracted with the U.S. Marshal Service and then used for ICE detention. This does not include CBP."

⁷ Footnote 3 in Plaintiffs' original FOIA request: "ICE has provided a majority of these fields in the past through FOIA, as they maintain this information in their relational databases. *See e.g.*, U.S. Immig. and Customs Enforcement, *Total Individuals Detained by ICE FY15 through August 2015*, FOIA2015-ICFO-95379, <https://www.ice.gov/foia/library> (last visited July 26, 2023)."

⁸ Footnote 4 in Requestors' original FOIA request: "One approach for a unique identifier would be for the data to be provided in a single spreadsheet where each row is a distinct individual with all of the requested fields as columns; for example, Excel provides sequential numbers for each row which could serve as unique identifiers."

- xxviii. Final release reason (i.e., Order of Recognizance; Orders of Supervision (OSUP); ICE bond; IJ bond; parole)
 - For OSUP, include conditions of release (i.e., ankle monitor)
- xxix. Initial Custody Determination
- xxx. Date of Initial Custody Determination
- xxxi. Initial ICE Bond set (Yes or No)
- xxxii. Initial ICE Bond Amount Set
- xxxiii. Date Initial ICE Bond Set
- xxxiv. Latest Bond Posted Amount⁹
- xxxv. Bond Posted (yes or no)
- xxxvi. Date Bond Posted
- xxxvii. Date of Birth
- xxxviii. Entry Status
- xxxix. LPR (Yes or No)
- xl. Case Category (Expedited Removal, Excludable/Inadmissible, Reinstated Final Order, etc)
- xli. Case Status (Excluded/Removed - Deportability or Inadmissibility, Active, etc)
- xlil. Most Serious Criminal Conviction (MSCC)
- xlili. MSCC Code
- xliv. MSCC Conviction Date
- xlvi. MSCC Sentence Days
- xlvi. MSCC Sentence Months
- xlvi. Aggravated Felon (Yes or No)
- xlvi. Aggravated Felon Type
- xlix. RC Threat Level
- l. Apprehension Landmark
- li. Apprehension COL
- lii. Arrest Method
- liii. 287(g) Arrest (Yes or No)
- liv. Border Patrol Arrest (Yes or No)
- lv. Latest Arrest Current Apprehension Program
- lvi. Latest Arrest Current Apprehension Program Code
- lvii. Existence of a G-28 on file (yes/no)
- lviii. Date G-28 was filed
- lix. Credible or Reasonable Fear Interview conducted
- lx. Determination of Credible or Reasonable Fear Interview
- lxi. Is there an Order of Removal (yes/no)
- lxii. Date of Order of Removal
- lxiii. Is there a Final Order of Removal
- lxiv. Date of Final Order of Removal
- lx. Departed To Country (country removed to if release reason = removed)
- lxvi. Departed Date

⁹ In Requestors' original FOIA request, there was a typographical error in number xxxiv, making it "Lated Bond Posted Amount". That error has been corrected here.

- lxvii. Notification of presence of serious physical or mental illness or to be pregnant, or have medical complications related to advanced age¹⁰
- lxviii. Transgender identity or not¹¹

2. Records Concerning Compliance with *Zadvydas v. Davis*, 533 U.S. 678 (2001)

These records already exist, as evidenced by other agency disclosures and records, and so this request does not seek the creation of new records. The specified timeframe, specified locations, and detailed requests ensure that the request is not overly broad.

a. From the Office of Detention and Removal Operations, from the beginning of fiscal year 2005 to the date the search is conducted, electronic data in Microsoft Excel or other standard database format from the database for tracking habeas petitions where an ICE Field Office requested headquarters assistance, the Detention and Removal Information Management System Database¹², or any other database holding relevant records, that includes all information related to the filing of a writ of habeas corpus, including, where available:

- i. Date of final removal order
- ii. Most Recent Date Entered into ICE Custody
- iii. Date of Release from Detention, if any
- iv. Date of Deportation, if any
- v. Date of Filing of Petition for Writ of Habeas Corpus
- vi. Habeas Corpus Case Number and Court
- vi. Whether Removal Was Effectuated
- viii. Deadline for Government Response to Habeas Petition
- ix. Outcome of Habeas Corpus Petition
- x. Country of Origin
- xi. Whether any declaration from an ICE official was submitted in the habeas corpus case

¹⁰ Footnote 5 in Plaintiffs' original FOIA request: "See requirement under PBNDS 2011 for Notifications of Detainees with Serious Illnesses and Other Specified Conditions, 4.3.V.X, <https://www.ice.gov/doclib/detention-standards/2011/4-3.pdf>."

¹¹ Footnote 6 in Plaintiffs' original FOIA request: "See e.g., *Detention Management, ICE Detention Statistics: ICE Transgender Detainee Population FY 2022 YTD as of 7/19/2022*, U.S. IMMIG. AND CUSTOMS ENFORCEMENT, <https://www.ice.gov/detain/detention-management> (last visited July 25, 2022) (includes Transgender Detainee Population)."

¹² Footnote 7 in Plaintiffs' original FOIA request: "A report by the DHS Office of Inspector General recounted that this database was being used to track habeas petitions where an ICE Field office had requested assistance from headquarters. ICE's Compliance with Detention Limits for Aliens with a Final Order of Removal from the United States at 7, Dep't Hom. Sec. Office of the Inspector General, OIG-07-28 7 (February 2007), available at https://www.oig.dhs.gov/sites/default/files/assets/Mgmt/OIG_07-28_Feb07.pdf."

We seek production of the records from identified database, or any successor or similar database, including but not limited to the fields identified in the original request i through xi where available. The OIG report, *supra* note 7, states that the database contained relevant data from 2,152 habeas corpus petitions from 2001 to March 2006. We are requesting relevant data from habeas corpus petitions from fiscal year 2005 to the date the search is conducted.

b. From the Headquarters Post-Order Detention Unit (HQPDU)¹³/Custody Determination Unit/ERO Removal Division or other ICE custodian, from 2001 to date the search is conducted, any electronic data in Microsoft Excel or other standard database format or other records that show the number of effectuated removals of noncitizens to countries other than the country listed in their final removal order, including the following:

- i. Country or countries of citizenship/nationality
- ii. Country or countries of birth
- iii. Country to which the noncitizen was deported
- iv. Date of final removal order
- v. Date of deportation

To satisfy our request for any records that show effectuated removals of noncitizens to countries other than the country listed in their removal order, we would equally accept records that show effectuated removals of noncitizens, and country of removal, and the country listed in the removal order.

Additionally, from the same unit and during the same time period, records such as training manuals, policies, or procedures on seeking travel documents from a country other than countries of citizenship/nationality/origin/birth, including records on when agency officials should refer a case for prosecution for failure to depart.¹⁴

¹³ Footnote 8 in Plaintiffs' original FOIA request: "The HQPDU is created by federal regulation. 8 C.F.R. § 241.4(c)(2). Federal regulation further provides that the 'Executive Associate Commissioner, acting through the HQPDU' will make 'all further custody determinations' for noncitizens who have not been released or removed in the three months after an initial post-order custody review. 8 C.F.R. § 241.4(c)(2). The regulations further provide that the Director of the HQPDU office "shall have the authority to establish and maintain appropriate files respecting each detained alien to be reviewed for possible release." 8 C.F.R. § 241.4(c)(3). Those files further include decisions to release or to retain custody, where the decision to retain custody "shall briefly set forth the reasons for the continued detention." 8 C.F.R. § 241.4(d); *see also* 8 C.F.R. § 241.4(d)(2) ("Copies of all such documents will be ... forwarded to the HQPDU.").

¹⁴ Footnote 9 in Plaintiffs' original FOIA request: "Training manuals, policies, and procedures on seeking travel documents from another country, which relates to the requirement under 8 C.F.R. § 241(g)(2) that district directors seek assistance from Headquarters Detention and Deportation, Office of Field Operations, in obtaining travel documents for those ordered removed."

c. From the Headquarters Post-Order Detention Unit/Custody Determination Unit/ERO Removal Division or other ICE custodian, from the beginning of fiscal year 2007 to date the search is conducted, the records of custody determinations conducted pursuant to 8 C.F.R. § 241.4 et seq. including the custody determination decision and any document prepared by ICE for the custody redetermination (such as any and all Decisions to Continue Detention, Notices to Alien of File Custody Review, Post Order Custody Review Worksheets, HQ POCR Checklists for 241.13 Reviews, Warning for Failure to Depart I-229(a) Forms & Instruction Sheets to Detainee Regarding Requirement to Assist to Removal, and Records of Personal Interviews prepared by the detained immigrant or by ICE) that show the basis of the decision, which should include the following information:

- i. Most Recent Date Entered into ICE Custody
- ii. Current detention facility
- iii. The date of the final removal order (including the date of the immigration judge's removal order, whether appeal to the Board of Immigration Appeals was waived or sought, the date of any decision on any appeal, whether any stay was sought, and the date of any stay decision)
- iv. The date of the custody review
- v. The status of any request for travel documents
- vi. The title, name, and date of review of the ICE official(s) who reviewed the custody determination
- vii. The person's criminal history
- viii. The person's country of origin
- ix. Unique identifier so subsequent and prior custody determinations for the same individual can be analyzed together

3. Records Concerning Immigration Detention Centers under the jurisdiction of the New Orleans, Louisiana and Burlington, Massachusetts Field Offices

These records already exist, as evidenced by other agency disclosures and records, and so this request does not seek the creation of new records. The specified timeframe, specified locations, and detailed requests ensure that the request is not overly broad.

a. From both Field Offices, from the beginning of fiscal year 2018 to the date the search is conducted, all Intergovernmental Service Agreements ("IGSA"), Cooperative Endeavor Agreements, amendments or contract modifications of the same, and any other documents related to detention facility contracts, number of beds allotted or allowed (including guaranteed bed minimums and maximums), and per diem rates with any government, corporation, or sub-office relating to below-listed

immigration detention centers in the New Orleans, Louisiana and Burlington, Massachusetts Field Office areas of responsibility, including the following facilities as well as any facility that ICE evaluated or considered for the purpose of detaining immigrants in these areas of responsibility during this period. In the interest of narrowing the search, we limit our request to contracts in which the annual or total payment is greater than \$10,000. ICE has previously produced these types of public records, specifically listed in the ICE FOIA library under sections entitled “Detention Facility Contracts,” “Contracts,” and “Intergovernmental Service Agreements.”

New Orleans, LA ERO Field Office

- Bossier Parish Medium Security Facility
- Richwood Correctional Center
- Jackson Parish Correctional Center
- Winn Correctional Center
- LaSalle Correctional Center
- LaSalle ICE Processing Center or Central Louisiana ICE Processing Center
- Catahoula Correctional Center
- River Correctional Center
- Alexandria Staging Facility
- Pine Prairie ICE Processing Center
- Allen Parish Public Safety Complex
- South Louisiana ICE Processing Center
- St. Tammany Parish Jail
- Etowah County Jail
- Adams County Correctional Center
- Tallahatchie County Correctional Facility

Burlington, MA ERO Field Office

- Strafford County House of Corrections
- Rockingham County Jail
- Plymouth County Correctional Facility
- Bristol County Detention Center
- Suffolk County House of Corrections
- Franklin County House of Corrections
- Norfolk County
- Cumberland County Jail
- Piscataquis County Jail
- Scarborough City Jail
- Aroostook County Jail
- Penobscot County Jail
- Washington County Jail
- York County Jail

- Dale Correctional Facility
- Lafayette Sheriffs Lock
- Addison County Jail
- Chittenden Regional Correctional Facility
- Northwest State Correctional Center
- Donald W. Wyatt Detention Facility

b. From the beginning of fiscal year 2018 to the date the search is conducted, any internal or external correspondence¹⁵ involving Field Office leadership¹⁶ related to the following search terms: closures, expansions, transfers, contracts, bed capacity, COVID, cohorting, quarantine, medical care complaints, solitary confinement, use of force by guards, deaths, alleged organized detainee resistance, alleged protests, or hunger strikes. In this subpart, only records relating to the Detention Centers subject to the jurisdiction of Massachusetts and Louisiana Field Offices listed above as well as any facility that ICE evaluated or considered for the purpose of detaining immigrants in these field office areas of responsibility are sought.

Searches should include both the full names of the detention facilities, as well as common abbreviations, included but not limited to:

New Orleans, LA ERO Field Office

- i. BPMSF
- ii. RCC
- iii. JPCC
- iv. WCC
- v. LCC
- vi. LIPC or CLIPC
- vii. CCC
- viii. RCC
- ix. ASF
- x. PPIPC
- xi. APPSC
- xii. SLIPC
- xiii. STPJ
- xiv. ECJ
- xv. ACCC
- xvi. TCCF

¹⁵ “In this request, the term “Correspondence” means the transmittal of information (in the form of facts, ideas, inquiries or otherwise).” [From Plaintiffs’ original FOIA request, Ex. 1, “Definitions”, p. 3.]

¹⁶ Footnote 10 in Plaintiffs’ original FOIA request: “Field Office leadership includes Field Office Director, Acting Field Office Director, Assistant Field Office Director, Deputy Field Office Director, Public Liaison, Community Relations Officer, and Supervisory Detention and Deportation Officers.”

Burlington, MA ERO Field Office

xvii. SCHC
xviii. RCJ
xix. PCCF
xx. BCDC
xxi. SCHC or SCHOC
xxii. FCHC or FCHOC
xxiii. NC
xxiv. CCJ
xxv. PCJ
xxvi. SCJ
xxvii. ACJ
xxviii. PCJ
xxix. WCJ
xxx. YCJ
xxxi. DCF
xxxii. LSL
xxxiii. ACJ
xxxiv. CRCF
xxxv. NSCC
xxxvi. DWDF

And common nicknames, including but not limited to:

New Orleans, LA ERO Field Office

xxxvii. Bossier
xxxviii. Richwood
xxxix. Jackson Parish
xl. Winn
xli. Olla
xlii. LaSalle
xliii. Jena
xliv. Catahoula
xlv. River
xlvi. Alexandria
xlvii. Pine Prairie
xlviii. Allen Parish
xlix. Basile
l. St. Tammany
li. Etowah
lii. Adams
liii. Tallahatchie

Burlington, MA ERO Field Office

liv. Dover
lv. Rockingham

lvi. Plymouth
lvii. Bristol
lviii. Suffolk
lix. South Bay
lx. Franklin
lxi. Norfolk
lxii. Cumberland
lxiii. Piscataquis
lxiv. Scarborough
lxv. Aroostook
lxvi. Penobscot
lxvii. Washington
lxviii. York
lix. Dale
lxx. Lafayette
lxxi. Addison
lxxii. Chittenden
lxxiii. Northwest State
lxxiv. Northwest
lxxv. Wyatt

17. A copy of Plaintiffs' July 16, 2024, FOIA request to ICE is attached as Exhibit 1.¹⁷
18. Plaintiffs asked that Defendant ICE construe the request as an ongoing FOIA request, such that any records that come within the possession of the agency prior to its final response to the FOIA request should also be considered within the scope of the request. *See* Ex. 1 at 11.
19. Plaintiffs also requested a fee waiver and expedited processing. *See id.* at 11-14.
20. Plaintiffs additionally requested that ICE prioritize processing the subparts 1 through 3 in the request in the order in which they were listed. Plaintiffs noted their

¹⁷ On August 15, 2022, Plaintiffs submitted a nearly identical request to ICE and filed suit in this District seeking relief under the Freedom of Information Act. *See Sherman-Stokes v. Immigration and Customs Enforcement (ICE)*, No. (1:23-cv-13083, D. Mass.). Counsel for ICE conveyed to Plaintiff ICE's position that Plaintiffs had not exhausted their administrative remedies. Following the parties' conferral, the parties agreed that Plaintiffs will voluntarily dismiss the case, resubmit the FOIA request, and provide any clarifications if they chose to do so, and that ICE will waive the duplicate request rule for a resubmitted request and will review such request de novo.

understanding “that much of the data requested in Section 1 can be queried quickly through your relational database,” and therefore asked the agency to release records as they are available instead of holding records for the completion of the request in its entirety.

21. After the FOIA statutory deadline to respond to the request had already passed, on September 4, 2024, ICE sent Plaintiffs an email acknowledging receipt of the FOIA request. Although FOIA requires agencies to make a determination with respect to any requests within 20 business days, ICE requested a 10-day extension to respond to the request under 5 U.S.C. § 552(a)(6)(B).

22. ICE granted Plaintiffs’ request for a fee waiver.

23. ICE denied Plaintiffs’ request for expedited processing.

24. ICE assigned the request the following tracking number: 2024-ICFO-46796.

25. More than 30 working days have passed since ICE received the FOIA request. ICE has not yet issued any determination on Plaintiffs’ FOIA request.

26. Because ICE has failed to timely respond to Plaintiffs’ FOIA request, Plaintiffs have constructively exhausted their administrative remedies.

Claims for Relief

Wrongful Withholding of Records Responsive to Plaintiffs’ FOIA Request

27. Plaintiffs repeat and re-allege the foregoing paragraphs.

28. In their July 16, 2024 FOIA request, Plaintiffs properly asked for records within the possession, custody, and control of ICE.

29. Defendant ICE has failed to conduct a timely adequate search in response to Plaintiffs’ FOIA request.

30. Plaintiffs have exhausted all administrative remedies with respect to their FOIA request under 5 U.S.C. § 552(a)(6)(C)(i).

31. Defendant is wrongfully withholding records responsive to Plaintiffs' FOIA request.

32. By failing to timely release all requested records in full to Plaintiffs, Defendant is in violation of FOIA, 5 U.S.C. § 552(a).

33. Plaintiffs are therefore entitled to injunctive and declaratory relief requiring immediate processing and disclosure of the requested records.

Requested Relief

WHEREFORE, Plaintiffs respectfully request that this Court:

- (1) Order Defendant to immediately and fully process Plaintiffs' FOIA request and disclose all non-exempt records to Plaintiffs;
- (2) Issue a declaration that Plaintiffs are entitled to immediate processing and disclosure of the requested records;
- (3) Provide for expeditious proceedings in this action;
- (4) Retain jurisdiction of this action to ensure no agency records are wrongfully withheld;
- (5) Award Plaintiffs their costs and reasonable attorneys' fees in this action; and
- (6) Grant such other relief as the Court may deem just and proper.

Date: October 3, 2024

Respectfully Submitted,

/s/ Sarah Sherman-Stokes

Professor Sarah Sherman-Stokes
Boston University Immigrants' Rights &
Human Trafficking Program
765 Commonwealth Avenue
Boston, Massachusetts 02215
Tel: (617) 358-6272
sstokes@bu.edu

Amber Qureshi*
amber@nipnlg.org
Khaled Alrabe*†
khaled@nipnlg.org
Ann Garcia*
ann@nipnlg.org
National Immigration Project of the
National Lawyers Guild (NIPNLG)
1201 Connecticut Ave. NW Suite 531
PMB 896645
Washington, DC 20036
Tel: (202) 470-2082

Professor Laila Hlass*
lhlass@tulane.edu
Professor Mary Yanik*
myanik@tulane.edu
Tulane Immigrant Rights Clinic
6329 Freret St, Suite 130
New Orleans, Louisiana 70117
Tel: (504) 865-5153

Counsel for Plaintiffs

* *Pro hac vice* application forthcoming

† Not admitted in DC; working remotely from and admitted in California

provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Sarah Sherman-Stokes, Laila Hlass, and Mary Yanik

(b) County of Residence of First Listed Plaintiff Norfolk County, MA
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys *(Firm Name, Address, and Telephone Number)*

National Immigration Project of the NLG
(see attached)

DEFENDANTS

U.S. Immigration and Customs Enforcement

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys *(If Known)*

U.S. Attorney's Office, District of Massachusetts
(see attached)

II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

☐ 1 U.S. Government Plaintiff

☐ 3 Federal Question *(U.S. Government Not a Party)*

☒ 2 U.S. Government Defendant

☐ 4 Diversity *(Indicate Citizenship of Parties in Item III)*

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff and One Box for Defendant)*

	PTF	DEF		PTF	DEF
Citizen of This State	☐ 1	☐ 1	Incorporated or Principal Place of Business In This State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated and Principal Place of Business In Another State	☐ 5	☐ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
☐ 110 Insurance ☐ 120 Marine ☐ 130 Miller Act ☐ 140 Negotiable Instrument ☐ 150 Recovery of Overpayment & Enforcement of Judgment ☐ 151 Medicare Act ☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans) ☐ 153 Recovery of Overpayment of Veteran's Benefits ☐ 160 Stockholders' Suits ☐ 190 Other Contract ☐ 195 Contract Product Liability ☐ 196 Franchise	PERSONAL INJURY ☐ 310 Airplane ☐ 315 Airplane Product Liability ☐ 320 Assault, Libel & Slander ☐ 330 Federal Employers' Liability ☐ 340 Marine ☐ 345 Marine Product Liability ☐ 350 Motor Vehicle ☐ 355 Motor Vehicle Product Liability ☐ 360 Other Personal Injury ☐ 362 Personal Injury - Medical Malpractice CIVIL RIGHTS ☐ 440 Other Civil Rights ☐ 441 Voting ☐ 442 Employment ☐ 443 Housing/Accommodations ☐ 445 Amer. w/Disabilities - Employment ☐ 446 Amer. w/Disabilities - Other ☐ 448 Education PRISONER PETITIONS Habeas Corpus: ☐ 463 Alien Detainee ☐ 510 Motions to Vacate Sentence ☐ 530 General ☐ 535 Death Penalty Other: ☐ 540 Mandamus & Other ☐ 550 Civil Rights ☐ 555 Prison Condition ☐ 560 Civil Detainee - Conditions of Confinement	☐ 625 Drug Related Seizure of Property 21 USC 881 ☐ 690 Other LABOR ☐ 710 Fair Labor Standards Act ☐ 720 Labor/Management Relations ☐ 740 Railway Labor Act ☐ 751 Family and Medical Leave Act ☐ 790 Other Labor Litigation ☐ 791 Employee Retirement Income Security Act IMMIGRATION ☐ 462 Naturalization Application ☐ 465 Other Immigration Actions	☐ 422 Appeal 28 USC 158 ☐ 423 Withdrawal 28 USC 157 PROPERTY RIGHTS ☐ 820 Copyrights ☐ 830 Patent ☐ 835 Patent - Abbreviated New Drug Application ☐ 840 Trademark ☐ 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY ☐ 861 HIA (1395ff) ☐ 862 Black Lung (923) ☐ 863 DIWC/DIWW (405(g)) ☐ 864 SSID Title XVI ☐ 865 RSI (405(g)) FEDERAL TAX SUITS ☐ 870 Taxes (U.S. Plaintiff or Defendant) ☐ 871 IRS—Third Party 26 USC 7609	☐ 375 False Claims Act ☐ 376 Qui Tam (31 USC 3729(a)) ☐ 400 State Reapportionment ☐ 410 Antitrust ☐ 430 Banks and Banking ☐ 450 Commerce ☐ 460 Deportation ☐ 470 Racketeer Influenced and Corrupt Organizations ☐ 480 Consumer Credit (15 USC 1681 or 1692) ☐ 485 Telephone Consumer Protection Act ☐ 490 Cable/Sat TV ☐ 850 Securities/Commodities/Exchange ☐ 890 Other Statutory Actions ☐ 891 Agricultural Acts ☐ 893 Environmental Matters ☒ 895 Freedom of Information Act ☐ 896 Arbitration ☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision ☐ 950 Constitutionality of State Statutes

REAL PROPERTY
☐ 210 Land Condemnation
☐ 220 Foreclosure
☐ 230 Rent Lease & Ejectment
☐ 240 Torts to Land
☐ 245 Tort Product Liability
☐ 290 All Other Real Property

V. ORIGIN *(Place an "X" in One Box Only)*

☐ 1 Original Proceeding

☐ 2 Removed from State Court

☐ 3 Remanded from Appellate Court

☐ 4 Reinstated or Reopened

☐ 5 Transferred from Another District *(specify)*

☐ 6 Multidistrict Litigation - Transfer

☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing *(Do not cite jurisdictional statutes unless diversity):*
Freedom of Information Act (FOIA), 5 U.S.C. § 552
Brief description of cause:
Freedom of Information Act (FOIA) action regarding materials requested from Defendant concerning its immigration detention operations.

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:
JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY *(See instructions):*
JUDGE Indira Talwani DOCKET NUMBER 1:23-cv-13083

DATE 10/03/2024 SIGNATURE OF ATTORNEY OF RECORD /s/ Sarah Sherman-Stokes

FOR OFFICE USE ONLY

JS-44 Civil Cover Sheet, Addendum – Sarah Sherman-Stokes, et al. v. U.S. Immigration and Customs Enforcement

Page 1

1(c) Attorneys for Plaintiffs

Amber Qureshi*

amber@nipnlg.org

Khaled Alrabe*†

khaled@nipnlg.org

Ann García*

ann@nipnlg.org

National Immigration Project of the National Lawyers Guild

1201 Connecticut Ave. NW Suite 531

PMB 896645

Washington, DC 20036

Tel: (202) 470-2082

Professor Sarah Sherman-Stokes

Boston University Immigrants' Rights & Human Trafficking Program

765 Commonwealth Avenue

Boston, Massachusetts 02215

(617) 358-6272

sstokes@bu.edu

Professor Laila Hlass*

lhlass@tulane.edu

Professor Mary Yanik*

myanik@tulane.edu

Tulane Immigrant Rights Clinic

6329 Freret St, Suite 130

New Orleans, Louisiana 70117

(504) 865-5153

* *Pro hac vice* applications forthcoming

† Not admitted in DC; working remotely from and admitted in California

JS-44 Civil Cover Sheet, Addendum – Sarah Sherman-Stokes, et al. v. U.S. Immigration and Customs Enforcement

Page 2

1(c) Attorneys for Defendants

United States Attorney's Office –District of Massachusetts

1 Courthouse Way, Suite 9200

Boston, MA 02210

(617) 748-3100

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

1. Title of case (name of first party on each side only) Sarah SHERMAN-STOKES et al., v. U.S. Immigration & Customs Enforcement

2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).

☐

I. 160, 400, 410, 441, 535, 830*, 835*, 850, 880, 891, 893, R.23, REGARDLESS OF NATURE OF SUIT.

☒

II. 110, 130, 190, 196, 370, 375, 376, 440, 442, 443, 445, 446, 448, 470, 751, 820*, 840*, 895, 896, 899.

☐

III. 120, 140, 150, 151, 152, 153, 195, 210, 220, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 367, 368, 371, 380, 385, 422, 423, 430, 450, 460, 462, 463, 465, 480, 485, 490, 510, 530, 540, 550, 555, 560, 625, 690, 710, 720, 740, 790, 791, 861-865, 870, 871, 890, 950.

*Also complete AO 120 or AO 121. for patent, trademark or copyright cases.

3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.

Sherman-Stokes v. Immigration and Customs Enforcement (ICE), No. 1:23-cv-13083

4. Has a prior action between the same parties and based on the same claim ever been filed in this court?

YES

☒

NO

☐

5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)

YES

☐

NO

☒

If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?

YES

☐

NO

☐

6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?

YES

☐

NO

☒

7. Do all of the parties in this action, excluding governmental agencies of the United States and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).

YES

☒

NO

☐

A. If yes, in which division do all of the non-governmental parties reside?

Eastern Division

☒

Central Division

☐

Western Division

☐

B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?

Eastern Division

☐

Central Division

☐

Western Division

☐

8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)

YES

☐

NO

☐

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME Sarah Sherman-Stokes

ADDRESS Boston University School of Law, 765 Commonwealth Avenue, Boston, MA 02215

TELEPHONE NO. (617) 358-6272

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

SARAH SHERMAN-STOKES, LAILA
HLASS, and MARY YANIK,

Plaintiffs

v.

U.S. IMMIGRATION AND CUSTOMS
ENFORCEMENT,

Defendant.

Civil Action No. 1:24-cv-12533

DECLARATION OF SARAH SHERMAN-STOKES

I, Sarah Sherman-Stokes, declare pursuant to 28 U.S.C. § 1746, as follows:

1. I am an attorney and Clinical Associate Professor of Law and Boston University School of Law, where I direct Boston University's Immigrants' Rights & Human Trafficking Program. I am one of the plaintiffs in this case and I also represent Plaintiffs in this case.
2. I submit this declaration to attach copies of certain documents referred to in Plaintiffs' Complaint for Injunctive and Declaratory Relief (ECF No. 1).
3. Attached as Exhibit 1 is a true and correct copy of the FOIA request sent by Plaintiffs on July 16, 2024 to Defendant U.S. Immigration and Customs Enforcement through the federal government's online SecureRelease Portal.
4. Attached as Exhibit 2 is a true and correct copy of Defendant U.S. Immigration and Customs Enforcement's email acknowledging receipt of Plaintiffs' FOIA request.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this 3rd day of October 2024, at Boston, Massachusetts.

/s/ Sarah Sherman-Stokes
SARAH SHERMAN-STOKES

Exhibit 1



TULANE LAW SCHOOL

Tulane Law Clinic
Civil Clinic
Criminal Clinic
Domestic Violence Clinic
First Amendment Clinic
Immigrant Rights Clinic
Juvenile Clinic



U.S. Immigration and Customs Enforcement
Freedom of Information Act Office
500 12th St., SW
Stop 5009
Washington, D.C. 20536-5009
Sent via Secure Release

July 16, 2024

**Re: Freedom of Information Act Request Regarding Detention Centers Served
by the Boston and New Orleans Field Offices as well as National Detention
Information**

Dear Immigration and Customs Enforcement:

Professors Laila L. Hlass, Mary Yanik and Sarah Sherman-Stokes (“requesters”) submit this request for information under the Freedom of Information Act (FOIA) 5 U.S.C. § 552, for a copy of the following records from the U.S. Immigration and Customs agency (“ICE”). We ask that you direct this request to all appropriate offices and departments within the agency.

PURPOSE OF THE REQUEST

We are law professors and researchers in immigration law at Tulane University Law School and Boston University School of Law. Tulane Law School and Boston University School of Law are professional schools within Tulane University and Boston University, respectively. They are both 501(c)(3) educational institutions and elite research institutions. Tulane and Boston University are both members of the distinguished Association of American Universities (AAU), which include universities known for leading “innovation, scholarship, and solutions that contribute to scientific progress, economic development, security, and well-being.”¹ We write

¹ *Our Members*, Assoc. of Am. Univ., available at <https://www.aau.edu/who-we-are/our-members> (last visited March 11, 2022).

with a request for data to further our academic research regarding immigrant detention and to inform the public about pressing issues related to immigrant detention.

Prof. Hlass's research agenda is focused on immigration law, policy and practice, with some focus on detention. Her scholarship has been published or is forthcoming in *California Law Review*, *American University Law Review*, *Utah Law Review*, *Georgetown Immigration Law Journal*, *Georgia State University Law Review*, and more. Prof. Hlass also regularly speaks and appears in the news regarding immigration law and detention and immigrant children, with publications in national news media, including *Slate*, *the Boston Globe*, and *Ms. Magazine*. Furthermore, she has presented at national webinars and workshops as well as published reports and a practice advisory for a national audience, including the American Immigration Lawyers Association, the national association of more than 15,000 attorneys and law professors who practice and teach immigration law, as well as the Immigrant Legal Resource Center, a national program that trains attorneys, paralegals, and community-based advocates and provides information to the media, elected officials and the public regarding immigration law.

Professor Yanik's research agenda is focused on immigration law and civil and constitutional rights, including rights of detained migrants and migrant workers. She has published in the *Hofstra Law Review* and has a piece published with Professor Hlass in the *Harvard Civil Rights and Civil Liberties Law Review*. She regularly speaks at conferences for the American Bar Association, continuing legal education events held by local and federal bar associations, and trainings for anti-trafficking and immigrant and worker rights advocates.

Recently Professors Hlass and Yanik were selected as 2021-2022 Bellow Scholars by the Association of American Law Schools. The Bellow program recognizes and supports empirical projects that involve substantial collaboration between law and other academic disciplines. This project is studying trends in immigrant detention system, including populations across regions in the United States, with particular focus on prolonged detention.

Professor Sherman-Stokes's research agenda is focused on immigration and asylum law, policy and practice, including a focus on detention and deportation. Her scholarship has been published in the *Hastings Law Journal*, *Villanova Law Review*, *Denver Law Review*, *Indiana Law Review*, and the *Georgetown Immigration Law Journal*. Professor Sherman-Stokes speaks regularly with news media regarding asylum, detention and deportation issues and has published in *The Washington Post*, *USA Today*, and *The Hill*. She is a regular speaker at national and regional conferences on issues related to immigration.

DEFINITIONS

1. **Record(s)**

In this request, the term "Record(s)" includes, but is not limited to, all records or correspondence preserved in electronic (including metadata) or written form, such as letters, emails, documents, data, videotapes, audio tapes, faxes, files, guidance, guidelines, evaluations, instructions, analyses, agreements, notes, orders, policies,

procedures, legal opinions, protocols, reports, rules, technical manuals, technical specifications, training manuals, studies, or any other record of any kind.

2. Agreement(s)

In this request, the term “Agreement(s)” refers to any agreement, written or otherwise; including contracts and/or supplements, modifications or addendums to these contracts or agreements.

3. Detention and/or Detain

In this request, the term “Detention” or “Detain” refers to the placement in custody of a noncitizen or individual suspected to be a noncitizen, based on purported violations of the Immigration and Nationality Act, into a local or state jail, or prison, not limited to Intergovernmental Service Agreement facilities. The term further refers to private contractual facilities, run or managed by private prison companies or corporations.

4. Correspondence

In this request, the term “Correspondence” means the transmittal of information (in the form of facts, ideas, inquiries or otherwise).

5. Data

In this request, the term “Data” includes all terms and codes. For any data provided as responsive to the request, please provide a glossary or other descriptive records containing definitions of acronyms, numerical codes, or terms contained in data responsive to this request. We request that you produce responsive materials in their entirety, including all attachments, appendices, enclosures, and/or exhibits. We also ask for any explanatory notes needed to make the data intelligible.

REQUESTED RECORDS

1. Records Concerning Detention History

These records already exist, as evidenced by other agency disclosures and records, and so this request does not seek the creation of new records. The specified timeframe, specified locations, and detailed requests ensure that the request is not overly broad.

- a. Requestors seek responsive records in an electronic, machine-readable, native file format, with all metadata and load files. This workable electronic format could be Microsoft Excel or comma-separated values (CSV) files. If terms or codes are not in the form template nor publicly defined, please provide a glossary or other descriptive records containing definitions of acronyms, numerical codes, or terms contained in data responsive to this request. We request that you produce responsive materials in their entirety, including all attachments, appendices, enclosures, and/or exhibits. We also ask for any explanatory notes needed to make the data intelligible. Since this information is tracked within ICE’s electronic databases, the agency can complete the request by performing automated queries, such that records can be obtained with reasonable effort.

b. Specifically we ask the ERO LESA Statistical Tracking Unit, or other applicable unit, office or component within ICE to provide Individualized, Disaggregated Data regarding each individual detained by ICE/ERO² from fiscal year 2010 through the date the search is conducted, with the following fields³:

- i. Unique Identifier⁴
- ii. Birth Countries
- iii. Citizenship Countries
- iv. Race
- v. Ethnicity
- vi. Gender
- vii. Religion
- viii. Date of Arrest/Apprehension
- ix. State and city where arrest/apprehension occurred
- x. Initial arresting/apprehending agency (i.e., ICE, CBP, non-DHS entity such as sheriff deputy)
- xi. Age at Initial Book in
- xii. Initial Book In Date And Time
- xiii. Initial Intake detention facility name, city, and state
- xiv. Initial Detention Facility Code
- xv. Initial Intake Docket Control Office (DCO)
- xvi. Book-in date and time of each subsequent detention facility
- xvii. Each subsequent detention facility name, city, and state
- xviii. Each subsequent detention facility code
- xix. DCO of each subsequent detention facility
- xx. Book-out date and time of each subsequent detention facility
- xxi. Order of Detention
- xxii. Requested release/parole from detention (yes/no)
- xxiii. Release/parole decision (granted/denied)
- xxiv. Release reason associated with each detention facility
- xxv. Date of release
- xxvi. Transfer reason (if release reason = transfer)
- xxvii. Final release date
- xxviii. Final release reason (i.e., Order of Recognizance; Orders of Supervision (OSUP); ICE bond; IJ bond; parole)
 - For OSUP, include conditions of release (i.e., ankle monitor)
- xxix. Initial Custody Determination
- xxx. Date of Initial Custody Determination

² This includes facilities that detain immigrants for ICE, including those owned by, run by or contracted with ICE, or contracted with the U.S. Marshal Service and then used for ICE detention. This does not include CBP.

³ ICE has provided a majority of these fields in the past through FOIA, as they maintain this information in their relational databases. See, e.g., *Total Individuals Detained by ICE FY15 through August 2015*, FOIA 2015-ICFO-95379, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, <https://www.ice.gov/foia/library> (last visited July 26, 2023).

⁴ One approach for a unique identifier would be for the data to be provided in a single spreadsheet where each row is a distinct individual with all of the requested fields as columns; for example, Excel provides sequential numbers for each row which could serve as unique identifiers.

- xxx. Initial ICE Bond set (Yes or No)
- xxxii. Initial ICE Bond Amount Set
- xxxiii. Date Initial ICE Bond Set
- xxxiv. Lated Bond Posted Amount
- xxxv. Bond Posted (yes or no)
- xxxvi. Date Bond Posted
- xxxvii. Date of Birth
- xxxviii. Entry Status
- xxxix. LPR (Yes or No)
 - xl. Case Category (Expedited Removal, Excludable/Inadmissible, Reinstated Final Order, etc)
 - xli. Case Status (Excluded/Removed -Deportability or Inadmissibility, Active, etc)
 - xl. Most Serious Criminal Conviction (MSCC)
 - xl. MSCC Code
 - xl. MSCC Conviction Date
 - xl. MSCC Sentence Days
 - xl. MSCC Sentence Months
 - xl. Aggravated Felon (Yes or No)
 - xl. Aggravated Felon Type
 - xl. RC Threat Level
 - l. Apprehension Landmark
 - li. Apprehension COL
 - lii. Arrest Method
 - liii. 287(g) Arrest (Yes or No)
 - liv. Border Patrol Arrest (Yes or No)
 - lv. Latest Arrest Current Apprehension Program
 - lvi. Latest Arrest Current Apprehension Program Code
 - lvii. Existence of a G-28 on file (yes/no)
 - lviii. Date G-28 was filed
 - lix. Credible or Reasonable Fear Interview conducted
 - lx. Determination of Credible or Reasonable Fear Interview
 - lxi. Is there an Order of Removal (yes/no)
 - lxii. Date of Order of Removal
 - lxiii. Is there a Final Order of Removal
 - lxiv. Date of Final Order of Removal
 - lxv. Departed To Country (country removed to if release reason = removed)
 - lxvi. Departed Date
 - lxvii. Notification of presence of serious physical or mental illness or to be pregnant, or have medical complications related to advanced age⁵
 - lxviii. Transgender identity or not⁶

⁵ See Requirement under PBNDS 2011 for Notifications of Detainees with Serious Illnesses and Other Specified Conditions, 4.3.V.X, <https://www.ice.gov/doclib/detention-standards/2011/4-3.pdf>.

⁶ See, e.g., *Detention Management, ICE Detention Statistics: ICE Transgender Detainee Population FY 2022 YTD as of 7/19/2022*, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, <https://www.ice.gov/detain/detention-management> (last visited July 25, 2022) (includes Transgender Detainee Population).

2. Records Concerning Compliance with *Zadvydas v. Davis*, 533 U.S. 678 (2001)

These records already exist, as evidenced by other agency disclosures and records, and so this request does not seek the creation of new records. The specified timeframe, specified locations, and detailed requests ensure that the request is not overly broad.

- a. From the Office of Detention and Removal Operations, from the beginning of fiscal year 2005 to the date the search is conducted, electronic data in Microsoft Excel or other standard database format from the database for tracking habeas petitions where an ICE Field Office requested headquarters assistance, the Detention and Removal Information Management System Database,⁷ or any other database holding relevant records, that includes all information related to the filing of a writ of habeas corpus, including, where available:
 - i. Date of final removal order
 - ii. Most Recent Date Entered into ICE Custody
 - iii. Date of Release from Detention, if any
 - iv. Date of Deportation, if any
 - v. Date of Filing of Petition for Writ of Habeas Corpus
 - vi. Habeas Corpus Case Number and Court
 - vii. Whether Removal Was Effectuated
 - viii. Deadline for Government Response to Habeas Petition
 - ix. Outcome of Habeas Corpus Petition
 - x. Country of Origin
 - xi. Whether any declaration from an ICE official was submitted in the habeas corpus case

We seek production of the records from identified database, or any successor or similar database, including but not limited to the fields identified in the original request i through xi where available. The OIG report, *supra* note 7, states that the database contained relevant data from 2,152 habeas corpus petitions from 2001 to March 2006. We are requesting relevant data from habeas corpus petitions from fiscal year 2005 to the date the search is conducted.

- b. From the Headquarters Post-Order Detention Unit (HQPDU)⁸/Custody Determination Unit/ERO Removal Division or other ICE custodian, from 2001 to

⁷ A report by the DHS Office of Inspector General recounted that this database was being used to track habeas petitions where an ICE Field office had requested assistance from headquarters. ICE's Compliance with Detention Limits for Aliens with a Final Order of Removal from the United States at 7, Dep't Hom. Sec. Office of the Inspector General, OIG-07-28 (February 2007), *available at* https://www.oig.dhs.gov/sites/default/files/assets/Mgmt/OIG_07-28_Feb07.pdf.

⁸ The HQPDU is created by federal regulation. 8 C.F.R. § 241.4(c)(2). Federal regulation further provides that the "Executive Associate Commissioner, acting through the HQPDU" will make "all further custody determinations" for noncitizens who have not been released or removed in the three months after an initial post-order custody review. 8 C.F.R. § 241.4(c)(2). The regulations further provide that the Director of the HQPDU office "shall have the authority to establish and maintain appropriate files respecting each detained alien to be reviewed for possible release." 8 C.F.R. § 241.4(c)(3). Those files further include decisions to release or to retain custody, where the decision to retain custody "shall briefly set forth the reasons for the continued detention." 8 C.F.R. § 241.4(d); *see also* 8 C.F.R. § 241.4(d)(2) ("Copies of all such documents will be ... forwarded to the HQPDU.").

date the search is conducted, any electronic data in Microsoft Excel or other standard database format or other records that show the number of effectuated removals of noncitizens to countries other than the country listed in their final removal order, including the following:

- i. Country or countries of citizenship/nationality
- ii. Country or countries of birth
- iii. Country to which the noncitizen was deported
- iv. Date of final removal order
- v. Date of deportation

To satisfy our request for any records that show effectuated removals of noncitizens to countries other than the country listed in their removal order, we would equally accept records that show effectuated removals of noncitizens, and country of removal, and the country listed in the removal order.

Additionally, from the same unit and during the same time period, records such as training manuals, policies, or procedures on seeking travel documents from a country other than countries of citizenship/nationality/origin/birth, including records on when agency officials should refer a case for prosecution for failure to depart.⁹

- c. From the Headquarters Post-Order Detention Unit/Custody Determination Unit/ERO Removal Division or other ICE custodian, from the beginning of fiscal year 2007 to date the search is conducted, the records of custody determinations conducted pursuant to 8 C.F.R. § 241.4 et seq. including the custody determination decision and any document prepared by ICE for the custody redetermination (such as any and all Decisions to Continue Detention, Notices to Alien of File Custody Review, Post Order Custody Review Worksheets, HQ POCR Checklists for 241.13 Reviews, Warning for Failure to Depart I-229(a) Forms & Instruction Sheets to Detainee Regarding Requirement to Assist to Removal, and Records of Personal Interviews prepared by the detained immigrant or by ICE) that show the basis of the decision, which should include the following information:
 - i. Most Recent Date Entered into ICE Custody
 - ii. Current detention facility
 - iii. The date of the final removal order (including the date of the immigration judge's removal order, whether appeal to the Board of Immigration Appeals was waived or sought, the date of any decision on any appeal, whether any stay was sought, and the date of any stay decision)
 - iv. The date of the custody review
 - v. The status of any request for travel documents
 - vi. The title, name, and date of review of the ICE official(s) who reviewed the custody determination
 - vii. The person's criminal history

⁹ Training manuals, policies, and procedures on seeking travel documents from another country, which relates to the requirement under 8 C.F.R. § 241(g)(2) that district directors seek assistance from Headquarters Detention and Deportation, Office of Field Operations, in obtaining travel documents for those ordered removed.

- viii. The person's country of origin
- ix. Unique identifier so subsequent and prior custody determinations for the same individual can be analyzed together

3. Records Concerning Immigration Detention Centers under the jurisdiction of the New Orleans, Louisiana and Burlington, Massachusetts Field Offices

These records already exist, as evidenced by other agency disclosures and records, and so this request does not seek the creation of new records. The specified timeframe, specified locations, and detailed requests ensure that the request is not overly broad.

- a. From both Field Offices, from the beginning of fiscal year 2018 to the date the search is conducted, all Intergovernmental Service Agreements ("IGSA"), Cooperative Endeavor Agreements, amendments or contract modifications of the same, and any other documents related to detention facility contracts, number of beds allotted or allowed (including guaranteed bed minimums and maximums), and per diem rates with any government, corporation, or sub-office relating to below-listed immigration detention centers in the New Orleans, Louisiana and Burlington, Massachusetts Field Office areas of responsibility, including the following facilities as well as any facility that ICE evaluated or considered for the purpose of detaining immigrants in these areas of responsibility during this period. In the interest of narrowing the search, we limit our request to contracts in which the annual or total payment is greater than \$10,000. ICE has previously produced these types of public records, specifically listed in the ICE FOIA library under sections entitled "Detention Facility Contracts," "Contracts," and "Intergovernmental Service Agreements."

New Orleans, LA ERO Field Office

- Bossier Parish Medium Security Facility
- Richwood Correctional Center
- Jackson Parish Correctional Center
- Winn Correctional Center
- LaSalle Correctional Center
- LaSalle ICE Processing Center or Central Louisiana ICE Processing Center
- Catahoula Correctional Center
- River Correctional Center
- Alexandria Staging Facility
- Pine Prairie ICE Processing Center
- Allen Parish Public Safety Complex
- South Louisiana ICE Processing Center
- St. Tammany Parish Jail
- Etowah County Jail
- Adams County Correctional Center
- Tallahatchie County Correctional Facility

Burlington, MA ERO Field Office

- Strafford County House of Corrections
- Rockingham County Jail
- Plymouth County Correctional Facility
- Bristol County Detention Center
- Suffolk County House of Corrections
- Franklin County House of Corrections
- Norfolk County
- Cumberland County Jail
- Piscataquis County Jail
- Scarborough City Jail
- Aroostook County Jail
- Penobscot County Jail
- Washington County Jail
- York County Jail
- Dale Correctional Facility
- Lafayette Sheriffs Lock
- Addison County Jail
- Chittenden Regional Correctional Facility
- Northwest State Correctional Center
- Donald W. Wyatt Detention Facility

- b. From the beginning of fiscal year 2018 to the date the search is conducted, any internal or external correspondence involving Field Office leadership¹⁰ related to the following search terms: closures, expansions, transfers, contracts, bed capacity, COVID, cohorting, quarantine, medical care complaints, solitary confinement, use of force by guards, deaths, alleged organized detainee resistance, alleged protests, or hunger strikes. In this subpart, only records relating to the Detention Centers subject to the jurisdiction of Massachusetts and Louisiana Field Offices listed above as well as any facility that ICE evaluated or considered for the purpose of detaining immigrants in these field office areas of responsibility are sought.

Searches should include both the full names of the detention facilities, as well as common abbreviations, included but not limited to:

New Orleans, LA ERO Field Office

- i. BPMSF
- ii. RCC
- iii. JPCC
- iv. WCC
- v. LCC
- vi. LIPC or CLIPC
- vii. CCC

¹⁰ Field Office leadership includes Field Office Director, Acting Field Office Director, Assistant Field Office Director, Deputy Field Office Director, Public Liaison, Community Relations Officer, and Supervisory Detention and Deportation Officers.

- viii. RCC
- ix. ASF
- x. PIPC
- xi. APPSC
- xii. SLIPC
- xiii. STPJ
- xiv. ECJ
- xv. ACCC
- xvi. TCCF

Burlington, MA ERO Field Office

- xvii. SCHC
- xviii. RCJ
- xix. PCCF
- xx. BCDC
- xxi. SCHC or SCHOC
- xxii. FCHC or FCHOC
- xxiii. NC
- xxiv. CCJ
- xxv. PCJ
- xxvi. SCJ
- xxvii. ACJ
- xxviii. PCJ
- xxix. WCJ
- xxx. YCJ
- xxxi. DCF
- xxxii. LSL
- xxxiii. ACJ
- xxxiv. CRCF
- xxxv. NSCC
- xxxvi. DWDF

And common nicknames, including but not limited to:

New Orleans, LA ERO Field Office

- xxxvii. Bossier
- xxxviii. Richwood
- xxxix. Jackson Parish
- xl. Winn
- xli. Olla
- xlii. LaSalle
- xliii. Jena
- xliv. Catahoula
- xlvi. River
- xlvi. Alexandria
- xlvi. Pine Prairie

- xlvi. Allen Parish
- xlvi. Basile
 - 1. St. Tammany
 - li. Etowah
 - lii. Adams
 - liii. Tallahatchie

Burlington, MA ERO Field Office

- liv. Dover
- lv. Rockingham
- lvi. Plymouth
- lvii. Bristol
- lviii. Suffolk
- lix. South Bay
- lx. Franklin
- lxi. Norfolk
- lxii. Cumberland
- lxiii. Piscataquis
- lxiv. Scarborough
- lxv. Aroostook
- lxvi. Penobscot
- lxvii. Washington
- lxviii. York
- lxix. Dale
- lxx. Lafayette
- lxxi. Addison
- lxxii. Chittenden
- lxxiii. Northwest State
- lxxiv. Northwest
- lxxv. Wyatt

Please construe this as an ongoing FOIA request, so that any records that come within the possession of the agency prior to your final response to this FOIA request should also be considered within the scope of the request.

WAIVER OF FEES

Requesters seek a fee waiver under 5 U.S.C. § 552(a)(4)(A)(iii) because the disclosure of the information is “in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.” The requesters have no commercial interest and do not stand to gain financially from any of the information requested. The requested information will be used for educational purposes, to prepare scholarly articles and reports, and to further the public understanding of immigration detention. Congress intended the FOIA fee waiver provision to encourage “open and accountable government.” *Citizens for Responsibility and Ethics in Washington v. U.S. Dep’t. of Educ.*, 593 F. Supp. 2d 261, 271 (D.D.C. 2009).

Therefore, agencies should “apply the public-interest waiver liberally.” *Conklin v. United States*, 654 F. Supp. 1104, 1005 (D. Colo. 1987). Please inform us if the charges for this FOIA production will exceed \$25.00.

EXPEDITED PROCESSING

Because the detention of immigrants is a matter of current exigency to the American public, the Requesters additionally ask that USCIS grant expedited processing. Under FOIA, a Request should be granted expedited processing if it is urgently needed by an organization primarily engaged in disseminating information to inform the public about actual or alleged Federal Government activity. *See* 5 U.S.C. § 552(a)(6)(E)(v)(II). *See also* 6 C.F.R. § 5.5 (e)(1)(ii). The United States Court of Appeals for the District of Columbia Circuit considers three factors for determining whether a FOIA request qualifies for expedited processing based on an urgency to inform the public. *See Al-Fayed v. CIA*, 254 F.3d 300, 310 (D.C. Cir. 2001). Namely, the court will examine, “(1) whether the request concerns a matter of current exigency to the American public; (2) whether the consequences of delaying a response would compromise a significant recognized interest; and (3) whether the request concerns federal government activity.” *Id.* Additionally, DHS regulations note that “[t]he existence of numerous articles published on a given subject can be helpful to establishing the requirement that there be an ‘urgency to inform’ the public on the topic.” 6 C.F.R. § 5.5 (e)(1)(ii). *See also Amer. Civil Liberties Union v. Dept. of Justice*, 321 F. Supp. 2d 24, 29 (D.D.C. 2004) (noting that numerous newspaper articles on the topic requested justify expedited processing of the request).

In this case, there is no doubt that the contours of the immigrant detention system, including the size, scope and demographics of detained immigrants, are a matter of current exigency to the American public. Specifically, the treatment of detained immigrants, the relationship between private detention companies, public facilities and ICE has received extensive media coverage and other publications, including, but not limited to, the following:

1	Gary Sinderson, “Report: Detainees at Moshannon Valley ICE Center Endure ‘Harmful & Inhumane’ Conditinos,” <i>WJAC</i> (July 12, 2024).
2	Physicians for Human Rights, Harvard Immigration & Refugee Clinical Program, & Peeler Immigration Lab, “‘Endless Nightmare’: Torture and Inhuman Treatment in Solitary Confinement in U.S. Immigration Detention,” Physicians for Human Rights (Feb. 2024).
3	Grace Deng, “Immigrant Detainees Resort to Hunger Strikes in Protest of Conditions at Tacoma Facility,” <i>Washington State Standard</i> (Nov. 17, 2023).
4	Aditi Shah & Eunice Hyunhye Cho, “ACLU Research Report: No Fighting Chance: ICE’s Denial of Access to Counsel in U.S. Immigration Detention Centers,” <i>ACLU</i> (2022).
5	Bill Keveney, “ICE Limits Migrants’ Legal Rights, Raising Deportation Risk, ACLU Report Says,” <i>USA Today</i> (June 9, 2022).

6	Fisayo Okare, “Immigrants Left Without Lawyers After Ice Transfers,” <i>Documented NY</i> (July 5, 2022).
7	Maria Sacchetti, “Inspector General, ICE Clash over Conditions at Immigration Detention Facility in New Mexico,” <i>The Washington Post</i> (Mar. 18, 2022).
8	Nate Raymond, “U.S. Supreme Court Rejects Bail Hearings for Detained Immigrants,” <i>Reuters</i> (June 13, 2022).
9	Maria Sacchetti, “Covid Infections Surge in Immigration Detention Facilities,” <i>The Washington Post</i> (Feb. 1, 2022).
10	Maria Sacchetti & Nick Miroff, “ICE to Withdraw Immigrant Detainees From Jails in Two States,” <i>The Washington Post</i> (Mar. 25, 2022).
11	Sarah Betancourt, “Senators Seek Probe of Plymouth County ICE Detention Facility Following Detainee Allegations of Abuse,” <i>GBH News</i> (Jan. 5, 2022).
12	Daniel Bush, “ICE Detains Ukrainians Seeking U.S. Asylum Amid Refugee Crisis,” <i>Newsweek</i> (Mar. 16, 2022).
13	Alleen Brown, “Migrants Fleeing Hurricanes and Drought Face New Climate Disasters in Ice Detention,” <i>The Intercept</i> (Mar. 31, 2022).
14	Sarah Rich, “Access Denied: SPLC and Allies Reject Incomplete ICE Report on Counsel Visits to Detained Immigrants,” <i>Southern Poverty Law Center</i> (Apr. 1, 2022).
15	Chelsea Verstegen, “Lawsuit: Indiana Jail Neglects Immigrants While Using ICE Funds as ‘Cash Cow,’” <i>Borderless Magazine</i> (June 8, 2022).
16	Rosie Manins, “DHS Watchdog Rebukes Conditions at Ga. Detention Center,” <i>Law 360</i> (July 7, 2022).
17	José Olivares & John Washington, “‘The Worst Day of My Life’ Ice Jail Nurse Sexually Assaulted Migrant Women, Complaint Letter Says,” <i>The Intercept</i> (July 13, 2022).
18	Dario McCarty, “Private Prison Industry Shifts Focus to Immigrant Detention Centers, Funding Immigration Hawks,” <i>Open Secrets</i> (June 21, 2022).

These articles and policy briefings, which represent only a small subset of the numerous articles published regarding trends in the immigrant detention system, demonstrate that the requested information concerns a matter of exigent urgency, thus satisfying the first prong of the *Al-Fayed* factors.

Additionally, delaying a response to this FOIA request would compromise a significant interest. The information regarding immigrant detention is significant because Congress is

actively engaged in legislative immigration reform at this very moment, with significant interest in immigration detention. This focus is demonstrated by the recent introduction of a number of relevant bills including the New Way Forward Act¹¹, and Dignity for Detained Immigrants Act.¹² Obtaining data on immigrant detention is an important aspect of the examination of the functioning of our immigration system and the detention system specifically. Without this data it is not possible to accurately understand the demographics of detained immigrants, and trends with regard to the length of detention. Thus, the second *Al-Fayed* factor is clearly met by this Request. Finally, it is unquestionable that the Request meets the third *Al-Fayed* factor because immigrant detention involves federal government activity.

REQUEST FOR SECTION PRIORITIZATION

Please prioritize processing the subparts 1 through 3 in this request in the order in which they are listed. Therefore, we request that the search(es) for subpart 1 are prioritized first and those records are reviewed and released as soon as possible. Our understanding is that much of the data requested in Section 1 can be queried quickly through your relational database. Please release all records as they are available rather than holding records for the completion of the request in its entirety.

CONCLUSION

Requesters certify that all of the above information is true to the best of their knowledge. See 6 C.F.R. § 5.5(d)(3).

If the request is denied in whole or in part, Requesters ask that all denials or deletions be justified by reference to specific FOIA exemptions and that all separable portions are released.

Please supply all records to Requesters, in the formats requested, at the following address:

Professor Mary Yanik
Tulane Immigrant Rights Clinic
6329 Freret St, Ste. 130
New Orleans, LA 70118-6231
myanik@tulane.edu

Please contact us if you have any questions at (504) 865-5153 or myanik@tulane.edu.

Regards,



¹¹ New Way Forward Act of 2021, H.R. 536, 117th Congress.

¹² Dignity for Detained Immigrants Act of 2021, H.R. 2222, 117th Congress.

Mary Yanik
La. Bar #36973
Requester



Laila Hlass
La. Bar #31475
Requester



Sarah Sherman-Stokes
MA SJC Bar # 682322
Requester

CC:

Acting Director Tae D. Johnson
U.S. Immigration and Customs Enforcement
500 12th St, SW
Washington, D.C. 20536-5010
Via SecureRelease

Acting Field Office Director Mellissa Harper
New Orleans Field Office
U.S. Immigration and Customs Enforcement
1250 Poydras St., Suite 325
New Orleans, LA 70113
Via SecureRelease

Exhibit 2

From: ice-foia@ice.dhs.gov <noreply@securerelease.us>

Sent: Wednesday, September 4, 2024 9:37 AM

To: Yanik, Mary C <myanik@tulane.edu>

Subject: ICE FOIA 2024-ICFO-46796

External Sender. Be aware of links, attachments and requests.

09/04/2024

Roberto
Romero
c/o Bufete Internacional
McAllen , Texas 78501

RE: ICE FOIA Case Number 2024-ICFO-46796

Dear Requester:

This acknowledges receipt of your Freedom of Information Act (FOIA) request to U.S. Immigration and Customs Enforcement (ICE), dated 7/16/2024, your request for a waiver of all assessable FOIA fees, and your request for expedited treatment. Your request was received in this office on 7/16/2024. Specifically, you have requested 1. Records Concerning Detention History

These records already exist, as evidenced by other agency disclosures and records, and so this request does not seek the creation of new records. The specified timeframe, specified locations, and detailed requests ensure that the request is not overly broad.

a.

Requestors seek responsive records in an electronic, machine-readable, native file format, with all metadata and load files. This workable electronic format could be Microsoft Excel or comma-separated values (CSV) files. If terms or codes are not in the form template nor publicly defined, please provide a glossary or other descriptive records containing definitions of acronyms, numerical codes, or terms contained in data responsive to this request. We request that you produce responsive materials in their entirety, including all attachments, appendices, enclosures, and/or exhibits. We also ask for any explanatory notes needed to make the data intelligible. Since this information is tracked within ICE's electronic databases, the agency can complete the request by performing automated queries, such that records can be obtained with reasonable effort.

b. Specifically we ask the ERO LESA Statistical Tracking Unit, or other applicable unit, office or component within ICE to provide Individualized, Disaggregated Data regarding each individual detained by ICE/ERO from fiscal year 2010 through the date the search is conducted, with the following fields :

- i. Unique Identifier
- ii. Birth Countries
- iii. Citizenship Countries
- iv. Race
- v. Ethnicity
- vi. Gender
- vii. Religion
- viii. Date of Arrest/Apprehension
- ix. State and city where arrest/apprehension occurred
- x. Initial arresting/apprehending agency (i.e., ICE, CBP, non-DHS entity such as sheriff deputy)
- xi. Age at Initial Book in
- xii. Initial Book In Date And Time
- xiii. Initial Intake detention facility name, city, and state
- xiv. Initial Detention Facility Code
- xv. Initial Intake Docket Control Office (DCO)
- xvi. Book-in date and time of each subsequent detention facility
- xvii. Each subsequent detention facility name, city, and state
- xviii. Each subsequent detention facility code
- xix. DCO of each subsequent detention facility

- xx. Book-out date and time of each subsequent detention facility
- xxi. Order of Detention
- xxii. Requested release/parole from detention (yes/no)
- xxiii. Release/parole decision (granted/denied)
- xxiv. Release reason associated with each detention facility
- xxv. Date of release
- xxvi. Transfer reason (if release reason = transfer)
- xxvii. Final release date
- xxviii. Final release reason (i.e., Order of Recognizance; Orders of Supervision (OSUP); ICE bond; IJ bond; parole)
 - For OSUP, include conditions of release (i.e., ankle monitor)
- xxix. Initial Custody Determination
- xxx. Date of Initial Custody Determination
- xxxi. Initial ICE Bond set (Yes or No)
- xxxii. Initial ICE Bond Amount Set
- xxxiii. Date Initial ICE Bond Set
- xxxiv. Lated Bond Posted Amount
- xxxv. Bond Posted (yes or no)
- xxxvi. Date Bond Posted
- xxxvii. Date of Birth
- xxxviii. Entry Status
- xxxix. LPR (Yes or No)
- xl. Case Category (Expedited Removal, Excludable/Inadmissible, Reinstated Final Order, etc)
- xli. Case Status (Excluded/Removed -Deportability or Inadmissibility, Active, etc)
- xl. Most Serious Criminal Conviction (MSCC)
- xl. MSCC Code
- xliv. MSCC Conviction Date
- xl. MSCC Sentence Days
- xlvi. MSCC Sentence Months
- xlvi. Aggravated Felon (Yes or No)
- xlvi. Aggravated Felon Type
- xl. RC Threat Level
- I. Apprehension Landmark
- li. Apprehension COL
- lii. Arrest Method
- liii. 287(g) Arrest (Yes or No)
- liv. Border Patrol Arrest (Yes or No)
- Iv. Latest Arrest Current Apprehension Program
- Ivi. Latest Arrest Current Apprehension Program Code
- Ivii. Existence of a G-28 on file (yes/no)
- Iviii. Date G-28 was filed
- lix. Credible or Reasonable Fear Interview conducted
- Ix. Determination of Credible or Reasonable Fear Interview
- Ixi. Is there an Order of Removal (yes/no)
- Ixii. Date of Order of Removal
- Ixiii. Is there a Final Order of Removal
- Ixiv. Date of Final Order of Removal
- Ixv. Departed To Country (country removed to if release reason = removed)
- Ixvi. Departed Date
- Ixvii. Notification of presence of serious physical or mental illness or to be pregnant, or have medical complications related to advanced age
- Ixviii. Transgender identity or not

2. Records Concerning Compliance with Zadvydas v. Davis, 533 U.S. 678 (2001)

These records already exist, as evidenced by other agency disclosures and records, and so this request does not seek the creation of new records. The specified timeframe, specified locations, and detailed requests ensure that the request is not overly broad.

a. From the Office of Detention and Removal Operations, from the beginning of fiscal year 2005 to the date the search is conducted, electronic data in Microsoft Excel or other standard database format from the database for tracking habeas petitions where an ICE Field Office requested headquarters assistance, the Detention and Removal Information Management System Database, or any other database holding relevant records, that includes all information related to the filing of a writ of habeas corpus, including, where available:

- i. Date of final removal order
- ii. Most Recent Date Entered into ICE Custody
- iii. Date of Release from Detention, if any
- iv. Date of Deportation, if any
- v. Date of Filing of Petition for Writ of Habeas Corpus
- vi. Habeas Corpus Case Number and Court
- vii. Whether Removal Was Effectuated
- viii. Deadline for Government Response to Habeas Petition
- ix. Outcome of Habeas Corpus Petition
- x. Country of Origin
- xi. Whether any declaration from an ICE official was submitted in the habeas corpus case

We seek production of the records from identified database, or any successor or similar database, including but not limited to the fields identified in the original request i through xi where available. The OIG report, *supra* note 7, states that the database contained relevant data from 2,152 habeas corpus petitions from 2001 to March 2006. We are requesting relevant data from habeas corpus petitions from fiscal year 2005 to the date the search is conducted.

b. From the Headquarters Post-Order Detention Unit (HQPDU) /Custody Determination Unit/ERO Removal Division or other ICE custodian,

from 2001 to date the search is conducted, any electronic data in Microsoft Excel or other standard database format or other records that show the number of effectuated removals of noncitizens to countries other than the country listed in their final removal

order, including the following:

- i. Country or countries of citizenship/nationality
- ii. Country or countries of birth
- iii. Country to which the noncitizen was deported
- iv. Date of final removal order
- v. Date of deportation

To satisfy our

request for any records that show effectuated removals of noncitizens to countries other than the country listed in their removal order, we would equally accept records that show effectuated removals of noncitizens, and country of removal, and the country listed in the removal order.

Additionally, from the same unit and during the same time period, records such as training manuals, policies, or procedures on seeking travel documents from a country other than countries of citizenship/nationality/origin/birth, including records on when agency officials should refer a case for prosecution for failure to depart.

c. From the Headquarters Post-Order Detention Unit/Custody Determination Unit/ERO Removal Division or other ICE custodian, from the beginning of fiscal

year 2007 to date the search is conducted, the records of custody determinations conducted pursuant to 8 C.F.R. § 241.4 et seq. including the custody determination decision and any document prepared by ICE for the custody redetermination (such as any and all

Decisions to Continue Detention, Notices to Alien of File Custody Review, Post Order Custody Review Worksheets, HQ POOCR Checklists for 241.13 Reviews, Warning for Failure to Depart I-229(a) Forms & Instruction Sheets to Detainee Regarding Requirement to Assist

to Removal, and Records of Personal Interviews prepared by the detained immigrant or by ICE) that show the basis of the decision, which should include the following information:

- i. Most Recent Date Entered into ICE Custody
- ii. Current detention facility
- iii.

The date of the final removal order (including the date of the immigration judge's removal order, whether appeal to the Board of Immigration Appeals was waived or sought, the date of any decision on any appeal, whether any stay was sought, and the date of

any stay decision)

- iv. The date of the custody review

- v. The status of any request for travel documents

- vi. The title, name, and date of review of the ICE official(s) who reviewed the custody determination
- vii. The person's criminal history
- viii. The person's country of origin
- ix. Unique identifier so subsequent and prior custody determinations for the same individual can be analyzed together

3. Records Concerning Immigration Detention Centers under the jurisdiction of the New Orleans, Louisiana and Burlington, Massachusetts Field Offices

These records already exist, as evidenced by other agency disclosures and records, and so this request does not seek the creation of new records. The specified timeframe, specified locations, and detailed requests ensure that the request is not overly broad.

a. From both Field Offices, from the beginning of fiscal year 2018 to the date the search is conducted, all Intergovernmental Service Agreements ("IGSA"), Cooperative Endeavor Agreements, amendments or contract modifications of the same, and any other documents related to detention facility contracts, number of beds allotted or allowed (including guaranteed bed minimums and maximums), and per diem rates with any government, corporation, or sub-office relating to below-listed immigration detention centers in the New Orleans, Louisiana and Burlington, Massachusetts Field Office areas of responsibility, including the following facilities as well as any facility that ICE evaluated or considered for the purpose of detaining immigrants in these areas of responsibility during this period. In the interest of narrowing the search, we limit our request to contracts in which the annual or total payment is greater than \$10,000. ICE has previously produced these types of public records, specifically listed in the ICE FOIA library under sections entitled "Detention Facility Contracts," "Contracts," and "Intergovernmental Service Agreements."

New Orleans, LA ERO Field Office

- Bossier Parish Medium Security Facility
- Richwood Correctional Center
- Jackson Parish Correctional Center
- Winn Correctional Center
- LaSalle Correctional Center
- LaSalle ICE Processing Center or Central Louisiana ICE Processing Center
- Catahoula Correctional Center
- River Correctional Center
- Alexandria Staging Facility
- Pine Prairie ICE Processing Center
- Allen Parish Public Safety Complex
- South Louisiana ICE Processing Center
- St. Tammany Parish Jail
- Etowah County Jail
- Adams County Correctional Center
- Tallahatchie County Correctional Facility

Burlington, MA ERO Field Office

- Strafford County House of Corrections
- Rockingham County Jail
- Plymouth County Correctional Facility
- Bristol County Detention Center
- Suffolk County House of Corrections
- Franklin County House of Corrections
- Norfolk County
- Cumberland County Jail
- Piscataquis County Jail
- Scarborough City Jail
- Aroostook County Jail
- Penobscot County Jail
- Washington County Jail
- York County Jail
- Dale Correctional Facility

- Lafayette Sheriffs Lock
- Addison County Jail
- Chittenden Regional Correctional Facility
- Northwest State Correctional Center
- Donald W. Wyatt Detention Facility

b. From the beginning

of fiscal year 2018 to the date the search is conducted, any internal or external correspondence involving Field Office leadership related to the following search terms: closures, expansions, transfers, contracts, bed capacity, COVID, cohorting, quarantine, medical care complaints, solitary confinement, use of force by guards, deaths, alleged organized detainee resistance, alleged protests, or hunger strikes. In this subpart, only records relating to the Detention Centers subject to the jurisdiction of Massachusetts and Louisiana Field Offices listed above as well as any facility that ICE evaluated or considered for the purpose of detaining immigrants in these field office areas of responsibility are sought.

Searches should include both the full names of the detention facilities, as well as common abbreviations, included but not limited to:

New Orleans, LA ERO Field Office

- i. BPMSF
- ii. RCC
- iii. JPCC
- iv. WCC
- v. LCC
- vi. LIPC or CLIPC
- vii. CCC
- viii. RCC
- ix. ASF
- x. PPIP
- xi. APPSC
- xii. SLIPC
- xiii. STPJ
- xiv. ECJ
- xv. ACCC
- xvi. TCCF

Burlington, MA ERO Field Office

- xvii. SCHC
- xviii. RCJ
- xix. PCCF
- xx. BCDC
- xxi. SCHC or SCHOC
- xxii. FCHC or FCHOC
- xxiii. NC
- xxiv. CCJ
- xxv. PCJ
- xxvi. SCJ
- xxvii. ACJ
- xxviii. PCJ
- xxix. WCJ
- xxx. YCJ
- xxxi. DCF
- xxxii. LSL
- xxxiii. ACJ
- xxxiv. CRCF
- xxxv. NSCC
- xxxvi. DWDF

And common nicknames, including but not limited to:

New Orleans, LA ERO Field Office

- xxxvii. Bossier

xxxviii. Richwood
xxxix.
Jackson Parish
xl. Winn
xli. Olla
xlii. LaSalle
xliii. Jena
xliv. Catahoula
xlv. River
xlvi. Alexandria
xlvii. Pine Prairie
xlviii. Allen Parish
xlix. Basile
I. St. Tammany
II. Etowah
III. Adams
IIII. Tallahatchie

Burlington,
MA ERO Field Office
liv. Dover
lv. Rockingham
lvi. Plymouth
lvii. Bristol
lviii. Suffolk
lix. South Bay
lx. Franklin
lxi. Norfolk
lxii. Cumberland
lxiii. Piscataquis
lxiv. Scarborough
lxv. Aroostook
lxvi. Penobscot
lxvii.
Washington
lxviii. York
lix. Dale
lxx. Lafayette
lxxi. Addison
lxxii. Chittenden
lxxiii. Northwest State
lxxiv. Northwest
lxxv. Wyatt
.

Due to the increasing number of FOIA requests received by this office, we may encounter some delay in processing your request. Per Section 5.5(a) of the DHS FOIA regulations, 6 C.F.R. Part 5, ICE processes FOIA requests according to their order of receipt. Although ICE's goal is to respond within 20 business days of receipt of your request, the

FOIA does permit a 10-day extension of this time period. As your request seeks numerous documents that will necessitate a thorough and wide-ranging search, ICE will invoke a 10-day extension for your request, as allowed by Title 5 U.S.C. § 552(a)(6)(B). If

you're able to narrow the scope of your request please contact our office. Narrowing the scope may speed up the search process. We will make every effort to comply with your request in a timely manner.

ICE evaluates fee waiver requests under the legal

standard set forth above and the fee waiver policy guidance issued by the Department of Justice on April 2, 1987, as incorporated into the Department of Homeland Security's Freedom of Information Act regulations. These regulations set forth six factors to

examine in determining whether the applicable legal standard for fee waiver has been met. I have considered the following factors in my evaluation of your request for a fee waiver:

- (1) Whether the subject of the requested records concerns "the operations or activities of the government";
- (2) Whether the disclosure is "likely to contribute" to an understanding of government operations or activities;

(3) Whether disclosure of the requested information will contribute to the understanding of the public at large, as opposed to the individual understanding of the requestor or a narrow segment of interested persons;

(4) Whether the contribution to public understanding of government operations or activities will be "significant";

(5) Whether the requester has a commercial interest that would be furthered by the requested disclosure; and

(6) Whether the magnitude of any identified commercial interest to the requestor is sufficiently large in comparison with the public interest in disclosure, that disclosure is primarily in the commercial interest of the requestor.

Upon review of your request and a careful consideration of the factors listed above, I have determined to grant your request for a fee waiver.

Your request for expedited treatment is hereby denied.

Under the DHS FOIA regulations, expedited processing of a FOIA request is warranted if the request involves "circumstances in which the lack of expedited treatment could reasonably be expected to pose an imminent threat to the life or physical safety of an individual," 6 C.F.R. § 5.5(e)(1)(i), or "an urgency to inform the public about an actual or alleged federal government activity, if made by a person primarily engaged in disseminating information," 6 C.F.R. § 5.5(e)(1)(ii). Requesters seeking expedited processing must submit a statement explaining in detail the basis for the request, and that statement must be certified by the requester to be true and correct. 6 C.F.R. § 5.5(e)(3).

Your request for expedited processing is denied because you do not qualify for either category under 6 C.F.R. § 5.5(e)(1). You have not established that lack of expedited treatment in this case will pose an imminent threat to the life or physical safety of an individual. While you may be primarily engaged in the dissemination of information, you have not detailed with specificity why you feel there is an urgency to inform the public about the detention of individuals by ICE. Qualifying urgency would need to exceed the public's right to know about government activity generally. You also did not offer sufficient supporting evidence of an interest of the public t greater than the public's general interest in the detention of individuals by ICE. Your letter was conclusory in nature and did not present any facts to justify a grant of expedited processing under the applicable standards.

If you deem the decision to deny expedited treatment of your request an adverse determination, you have the right to appeal. Should you wish to do so, you must send your appeal and a copy of this letter, within 90 days of the date of this letter following the procedures outlined in the DHS FOIA regulations at 6 C.F.R. Part 5 § 5.5(e)(2). You may submit your appeal electronically at GILDFOIAAppeals@ice.dhs.gov or via regular mail to:

U.S. Immigration and Customs Enforcement
Office of the Principal Legal Advisor
U.S. Department of Homeland Security
500 12th Street, S.W., Mail Stop 5900
Washington, D.C. 20536-5900

Your envelope and letter should be marked "FOIA Appeal." Copies of the FOIA and DHS regulations are available at www.dhs.gov/foia.

ICE has queried the appropriate program offices within ICE for responsive records. If any responsive records are located, they will be reviewed for determination of releasability. Please be assured that one of the processors in our office will respond to your request as expeditiously as possible. We appreciate your patience as we proceed with your request.

If you have any questions please contact FOIA Public Liaison Daniel Edgington, at (866) 633-1182 or 500 12th St, SW Stop 5009 Washington, DC 20536-5009. Additionally, you have a right to seek dispute resolution services from the Office of Government Information Services (OGIS) which mediates disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. If you are requesting access to your own records (which is considered a Privacy Act request), you should know that OGIS does not have the authority to handle requests made under the Privacy Act of 1974. You may contact OGIS as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448.

Your request has been assigned reference number 2024-ICFO-46796. Please use this number in future correspondence.

Sincerely,

ICE FOIA Office
Immigration and Customs Enforcement
Freedom of Information
Act Office
500 12th Street, S.W., Stop 5009
Washington, D.C. 20536-5009