



August 13, 2021

Fernando Pineiro

ICE FOIA Public Liaison

Immigration and Customs Enforcement

Freedom of Information Act Office

500 12th St. S.W., Stop 5009

Washington, D.C. 20536-5009

Via Email: ice-foia@ice.dhs.gov

Office of Government Information Services

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8601 Adelphi Rd. - OGIS

College Park, MD, 20740-6001

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Via Email: ogc@hq.dhs.gov

Re: ICE's Pattern and Practice of Violating the Freedom of Information Act Prevents Timely Public Access to Vital Information About the Agency's Alleged Misconduct.

Dear ICE Freedom of Information Act (FOIA) Decisionmakers:

We write on behalf of #DetentionKills - an international network of families whose loved ones died after being imprisoned in U.S. Immigration and Customs Enforcement (ICE) civil immigration detention centers, and the coalition of non-profit organizations, pro bono lawyers, and experts investigating those deaths and pursuing justice, transparency, and accountability on these families' behalf.

The purpose of this letter is to call your attention to an apparent pattern and practice within ICE's FOIA office of failing to comply with the Act's requirements for promptly acknowledging FOIA requests, timely assigning individualized tracking numbers, properly construing requests in favor of the requestor to presumptively facilitate the broadest disclosure possible, timely conducting adequate searches, and making promptly available all reasonably segregable, non-exempt agency records.

As outlined in the table below, ICE has serially violated nearly every procedural requirement Congress requires agencies to fulfill in responding to our FOIA requests.

These serial violations obstruct the public's access to vital information about life-or-death questions regarding your agency's treatment of human beings in its care. Consistent denial of access to these records threatens to fundamentally undermine the legitimacy of the agency itself. A federal agency that cannot comply with basic, non-discretionary duties as straightforward as those set forth in the Freedom of Information Act is an agency whose compliance with its other legal obligations may reasonably be called into doubt.

Accordingly, we respectfully request that you open an immediate investigation into the root causes of the violations documented in the table below. We further demand that you complete processing of each of these requests without further delay, and provide us estimated dates of completion required by the Act for each request no later than August 31, 2021.

In the absence of a response on or before this date, we will have no choice but to take these issues up with the judiciary and Congressional oversight bodies. If that becomes necessary, our records will demonstrate that ICE serially violates the Freedom of Information Act by:

1. Failing to acknowledge all FOIA requests within 10 working days of receipt. (13 of 19 requests).
2. Failing to assign individualized tracking numbers to all FOIA requests and appeals. (5 of 19 requests).
3. Deliberately misconstruing FOIA requests as 'too broad' or failing to promptly task a search reasonably calculated to lead to all responsive records in violation of the presumption of liberal construction the agency must apply to all such requests. (6 of 19 requests).
4. Failing to provide an accurate estimated date of production for requests. (19 of 19 requests)
5. Failing to make responsive records promptly available to requests. (19 of 19 requests)

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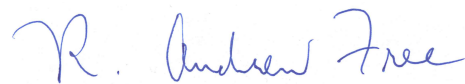
Selected Pending #DetentionKills FOIA Requests					
Request Tracking No.	Request Date	Acknowledge Date	Current Status	Days Pending	Request Topic
2019-ICFO-39213	5/10/2019	7/23/2019	Blanket 7A Denial Appealed 7/29/19; No Agency Response	826	Open Death Investigations
2019-ICFO-38993	5/9/2019	5/21/2019	'In Queue' as of 7/3/2019	827	ICE Detainee Death Policies & Reports
2019-ICFO-38991	5/9/2019	5/21/2019	Appeal Sustained & Remanded for Search 8/2/21	827	GEO & CoreCivic Contract Discrepancy Reports
2020-ICFO-58288	7/10/2019	6/26/2020	Demonstrably incomplete response provided 8/10/21. Appeal Filed.	765	CoreCivic CDRs post-2017
No Tracking No. Assigned	7/10/2019	4/26/2021	No Response	765	GEO CDRs post-2017
2020-ICFO-31350	7/10/2019	4/3/2020	No Response	765	LaSalle CDRs post-2017
2020-ICFO-58271	9/2/2019	6/20/2020	No Response	711	IHSC Mortality Reviews 2015-Present
2020-ICFO-06614	10/9/2019	11/5/2019	Appeal Sustained & Remanded for Search 12/23/2019	674	ICE Comms regarding Jean Jimenez

2020-ICFO-04380	10/18/2019	10/23/2019	Appeal Sustained & Remanded for Search 12/29/2019	665	ICE OAQ Medical Staffing Ratios
No Tracking No. Assigned	11/24/2019	None	No Response	628	DRIL Requests by Facility
2020-ICFO-20841	12/29/2019	02/04/2020	No Response	592	Director Dashboards
No Tracking No. Assigned	3/9/2020	None	No Response	522	ICE COVID19 Contingency Plans
2020-ICFO-56999	6/15/2020	6/24/2020	No Response	424	ICE Meta-FOIA for Delayed Requests
2020-ICFO-68105	7/23/2020	7/24/2020	No Response	386	Arizona ICE Detention Center Suicide SIRs & SENs
2021-ICFO-04070	10/17/2020	1/7/2021	No Response	300	ICDC Medical Abuse Allegations
LONG OVERDUE FOIA REQUESTS REGARDING ILLEGALITY IN ICE'S FOIA OFFICE					
2019-ICFO-38323	5/10/2019	5/15/2019	No Response	826	ICE FOIA Office Policies, Procedures & Staffing FY16-19
2020-ICFO-63596	09/12/2019	7/14/2020	No Response	701	ICE FOIA Training Materials
2020-ICFO-18553	12/3/2019	1/22/2020	Denied 1/23/2020; Appeal filed	619	ICE FOIA Policy on 500 PPM

			3/10/2020. No Receipt or Tracking Number Assigned		
2020-ICFO-21220	1/9/2020	2/6/2020	Appeal Sustained & Remanded for Additional Searches 9/1/2020	582	ICE 'Too Broad' FOIA Denial Records

Please take immediate steps to bring ICE into compliance with its obligations under the Act.

Sincerely,



R. Andrew Free