



May 18, 2021

SUBMITTED ELECTRONICALLY

Bradley E. White
FOIA Officer
Office for Civil Rights and Civil Liberties
U.S. Department of Homeland Security
Building 410, Mail Stop #0190
Washington, DC 20528

Re: **FOIA Request for Records Related to Complaints about Immigration Detention**

Dear Mr. White:

The American Immigration Council (“Council”) and the Black Alliance for Just Immigration (“BAJI”) (“Requesters”) submit the following Freedom of Information Act (“FOIA”) request for records related to complaints involving eight immigration detention facilities received on or after October 1, 2015 (“Request”).

Requestors also seek a fee waiver, pursuant to 5 U.S.C. § 552(a)(4)(A) and 6 C.F.R. § 5.11(k).

In accordance with 5 U.S.C. § 552(a)(6)(A)(i), we expect a response to this request within 20 working days, unless otherwise permitted by statute.

I. REQUEST FOR INFORMATION

Requestors seek records¹ relating to complaints, grievances, or other communication received and/or investigated by the U.S. Department of Homeland Security Office for Civil Rights and Civil Liberties (CRCL) involving the following immigration detention facilities and/or its employees or contractors:

¹ For purposes of the Request, the term “records” includes but is not limited to all communications, correspondence, directives, documents, data, videotapes, audiotapes, e-mails, faxes, files, guidance, guidelines, standards, evaluations, instructions, analyses, memoranda, agreements, notes, orders, policies, procedures, protocols, reports, spreadsheets, charts, rules, manuals, technical specifications, training materials, and studies, including records kept in written form, or electronic format on computers and/or other electronic storage devices, electronic communications and/or videotapes, as well as any reproductions thereof that differ in any way from any other reproduction, such as copies containing marginal notations.

- Jackson Parish Correctional Center (Louisiana);
- LaSalle ICE Processing Center (Louisiana);
- Pine Prairie ICE Processing Center (Louisiana);
- Winn Correctional Center (Louisiana);
- Adams County Correctional Center (Mississippi);
- Prairieland Detention Center (Texas);
- T. Don Hutto Residential Center (Texas); and
- West Texas Detention Facility (Texas).

Requesters seek the records for the period between October 1, 2015 (start of Fiscal Year 2016) and the date of the final response to this request. Please construe this as an ongoing FOIA request, so that until a proper and adequate search is conducted, any records that come within the possession of the agency prior to the final response to this FOIA request be considered within the scope of the request.

Requestors seek the following records:

1. Summaries of complaints, grievances, and communication involving (1) due process, including lack of access to legal counsel; (2) medical and mental health care, including lack of access to or substandard care, medicine, and food; (3) physical, sexual, or verbal abuse or mistreatment; (4) solitary confinement or segregation; (5) use of force, rubber bullets, retaliation, crowd control and/or chemical agents, including pepper spray; (6) racial profiling or discrimination; and (7) detention conditions, at Jackson Parish Correctional Center (Louisiana); LaSalle ICE Processing Center (Louisiana); Pine Prairie ICE Processing Center (Louisiana); Winn Correctional Center (Louisiana); Adams County Correctional Center (Mississippi); Prairieland Detention Center (Texas); T. Don Hutto Residential Center (Texas); and West Texas Detention Facility (Texas).
2. A sample of the full complaints, grievances, and/or communication that pertain to the facilities. Specifically, we request ten (10) complaints per fiscal year, per immigration detention facility listed (Jackson Parish Correctional Center (Louisiana); LaSalle ICE Processing Center (Louisiana); Pine Prairie ICE Processing Center (Louisiana); Winn Correctional Center (Louisiana); Adams County Correctional Center (Mississippi); Prairieland Detention Center (Texas); T. Don Hutto Residential Center (Texas); and West Texas Detention Facility (Texas)).
3. Summaries of the complaints or grievances CRCL referred to the Office of Inspector General (OIG) involving the previously listed immigration detention facilities (Jackson Parish Correctional Center (Louisiana); LaSalle ICE Processing Center (Louisiana); Pine Prairie ICE Processing Center (Louisiana); Winn Correctional Center (Louisiana); Adams County Correctional Center (Mississippi); Prairieland Detention Center (Texas); T. Don Hutto Residential Center (Texas); and West Texas Detention Facility (Texas)).

Format of Production

Requestors seek responsive electronic records in a machine-readable, native file format, with all metadata and load files. We request that any data be provided in a workable format, such as Microsoft Excel or comma-separated values (CSV) files. If terms or codes are not in the form template and/or 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.

For non-data files, Requestors ask that the records be provided electronically in a text-searchable, static-image format (PDF), in the best image quality in the agency's possession, and that the records be provided in separate, Bates-stamped files.

II. PUBLIC INTEREST FEE WAIVER REQUEST

Requestors seek a fee waiver because the information sought in the Request 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 [requesters]....” 5 U.S.C. § 552(a)(4)(A)(iii); 6 C.F.R. § 5.11(k).

As outlined below, Requesters seek to provide the public with information about ICE's operation of immigration detention centers in the southeastern United States, the treatment of individuals held in U.S. government custody, and oversight and accountability mechanisms. Requesters are non-profit organizations without a commercial interest in the release of this information and intend to make the information received in response to this request available to the public at no charge. Further, Requesters have a demonstrated track record of disseminating information obtained via FOIA requests to the public and collectively reach a wide audience, which includes varied segments of the U.S. public.

A. *Disclosure Will Contribute to Public Understanding of Treatment of Immigrants in ICE Detention*

This Request seeks information that will provide the public with critical insights into ICE operations and treatment of detained individuals in eight immigration detention facilities, just a handful of the hundreds of facilities ICE uses for detention.

Individuals held in ICE detention facilities are subject to the conditions and treatment established by ICE—part of the Department of Homeland Security—and carried out by its personnel and sub-contractors. Detained individuals have limited access to the outside world and have very few avenues to effectively raise concerns. Unfortunately, there is a long track

record of complaints, abuse, misconduct, inadequate medical care, and poor oversight in ICE detention.²

While the importance of information about ICE detention is well established, it remains difficult to obtain information about ICE detention operations, issues that arise in detention, and actions taken to address complaints.

Requestors seek the disclosure of information that will enhance the public's understanding of government operations. Specifically, how individuals held in ICE custody are treated; how problems are brought to the government's attention; and how the issues are addressed. This information is not readily available to the public. As outlined further below, Requestors intend to make the information received in response to the Request available to the public at no charge through online publication. Further, the Requestors reach broad audiences, which includes varied segments of the U.S. public.

B. Disclosure of the Information Is Not in the Commercial Interest of Requestors

The Council is a not-for-profit organization and has no commercial interest in the Request. See e.g. 6 C.F.R. § 5.11(k)(3)(i)-(ii). The Request furthers the Council's work to increase public understanding of immigration law and policy, advocate for the fair and just administration of U.S. immigration laws, protect the legal rights of noncitizens, and educate the public about the enduring contributions of America's immigrants. As with all other reports and information available on the Council's website, the information that the Council receives in response to the Request will be available to immigration attorneys, noncitizens, and other interested members of the public free of charge.

The information Requestors receive will be analyzed and published in a format widely accessible to the public. Government records and data received by the Council through FOIA requests are regularly made available to the public in fact sheets and reports posted to the Council's website.³

² See, e.g., DHS Office of Inspector General (DHS OIG), *Concerns about ICE Detainee Treatment and Care at Detention Facilities* (Dec. 2017), <https://www.oig.dhs.gov/sites/default/files/assets/2017-12/OIG-18-32-Dec17.pdf>; Alice Sperti, *Detained, then Violated*, *The Intercept* (April 11, 2018), <https://theintercept.com/2018/04/11/immigration-detention-sexual-abuse-ice-dhs/>; Human Rights Watch, *Code Red: The Fatal Consequences of Dangerously Substandard Medical Care in Immigration Detention* (June 2018), <https://www.hrw.org/report/2018/06/20/code-red/fatal-consequences-dangerously-substandard-medical-care-immigration>; Emily Ryo & Ian Peacock, *The Landscape of Immigration Detention in the United States*, American Immigration Council (Dec. 2018), <https://www.americanimmigrationcouncil.org/research/landscape-immigration-detention-united-states>; DHS OIG, *ICE Does Not Fully Use Contracting Tools to Hold Detention Facility Contractors Accountable for Failing to Meet Performance Standards* (Jan. 2019), <https://www.oig.dhs.gov/sites/default/files/assets/2019-02/OIG-19-18-Jan19.pdf>; DHS OIG, *Capping Report: Observations of Unannounced Inspections of ICE Facilities in 2019* (July 2020), <https://www.oig.dhs.gov/sites/default/files/assets/2020-07/OIG-20-45-Jul20.pdf>.

³ See, e.g., American Immigration Council, *The Electronic Nationality Verification Program: An Overview* (Jan. 26, 2021), <https://www.americanimmigrationcouncil.org/research/electronic-nationality-verification-program-overview>;

Previous reports include an analysis of ICE data on immigration enforcement encounters conducted in the United States over a 2-year period.⁴ Council fact sheets and website posts detail and make available government documents detailing agency guidance and policies. The Requestors intend to synthesize and publish information about governmental operations obtained through this FOIA request on its publicly accessible website.

In calendar year 2020, the Council's website received more than 2.4 million pageviews from more than 1.4 million visitors. The Council also has regular contact with national print and news media and plans to share information obtained from FOIA disclosures with interested media.

BAJI is a not-for-profit organization and has no commercial interest in the Request. BAJI is a racial justice and migrant rights organization which engages in legal representation, advocacy, community organizing, education, and cross-cultural alliance-building in order to end the racism, criminalization, and economic disenfranchisement of African American and Black immigrant communities. BAJI was founded in Oakland, CA by veteran civil rights activists and clergy who were concerned about a wave of unjust immigration enforcement laws. BAJI subsequently expanded its mission to include advocacy on behalf of all Black immigrants and refugees, and today has offices and/or staff members in New York, NY; Los Angeles, CA; Oakland, CA; Atlanta, GA; Miami, FL; Washington, DC; Minneapolis, MN; and Houston, TX.

BAJI works with local community groups to educate impacted communities in understanding their rights and responding to increased militarized police presence in their communities. To further its mission, BAJI creates and disseminates presentations, reports, articles, interviews, testimony, social media, and blog posts to educate the public about the activities of the United States government as it relates to Black immigrant communities. Obtaining information about government activity, analyzing that information, and disseminating that information to the press and public are critical components of BAJI's work.⁵

Guillermo Cantor et al., *Changing Patterns of Interior Immigration Enforcement in the United States, 2016 -2018*, American Immigration Council (July 1, 2019), <https://americanimmigrationcouncil.org/research/interior-immigration-enforcement-united-states-2016-2018>; American Immigration Council, *Stays of Removal Responses from EOIR* (May 2019), https://americanimmigrationcouncil.org/sites/default/files/foia_documents/board_of_immigration_appeals_interpretation_of_stay_of_removal_foia_production.pdf; Guillermo Cantor & Walter Ewing, *Still No Action Taken: Complaints Against Border Patrol Agents Continue to Go Unanswered*, American Immigration Council (Aug. 2017) (examining records of alleged misconduct by Border Patrol employees), http://bit.ly/Council_StillNoActionTaken.

⁴ Guillermo Cantor et al., *Changing Patterns of Interior Immigration Enforcement in the United States, 2016 -2018*, American Immigration Council (July 1, 2019), <https://americanimmigrationcouncil.org/research/interior-immigration-enforcement-united-states-2016-2018>.

⁵ See S. Priya Morley et al., "There is a Target on Us" – *The Impact of Mexico's Anti-Black Racism on African Migrants at Mexico's Southern Border*, Black Alliance for Just Immigration (2021), <http://baji.org/wp-content/uploads/2021/01/The-Impact-of-Anti-Black-Racism-on-African-Migrants-at-Mexico.pdf>; Juliana Morgan-Trostle et al., *The State of Black Immigrants*, Black Alliance for Just Immigration and New York University Immigrant Rights Clinic (Jan. 2020), <http://baji.org/wp-content/uploads/2020/03/sobi-fullreport-jan22.pdf>; Nancy Adossi et al.,

Given that FOIA's fee-waiver requirements are to “be liberally construed in favor of waivers for noncommercial requesters,” a waiver of all fees is justified and warranted in this case. See *Judicial Watch v. Rossotti*, 326 F.3d 1309, 1312 (D.C. Cir. 2003) (finding a fee waiver appropriate when the requester explained, in detailed and non-conclusory terms, how and to whom it would disseminate the information it received).

III. EXEMPTIONS

Please note that Requesters do not seek personally identifiable information. Requesters understand that the agency will redact any personally identifiable information. If CRCL withholds records based on its assessment that one or more statutory exemptions apply to any of the records requested, please describe in detail the nature of the records withheld and the specific exemption(s) or privilege(s) CRCL contends permits the withholding. If any portion(s) of the requested records are determined to be exempt, please provide the non-exempt portions. 5 U.S.C. §552(a)(8)(A)(ii)(II).

Thank you in advance for your attention to the Request. If you have any questions, please feel free to contact Requestors at the contact information below.

Sincerely,

/s/ Tory Johnson

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Black Lives at the Border, Black Alliance for Just Immigration (Jan. 2018), <http://baji.org/wp-content/uploads/2020/03/black-lives-at-the-borderfinal-2.pdf>.