

U.S. Department of Homeland Security
500 12th St., SW
Washington, D.C. 20536



U.S. Immigration
and Customs
Enforcement

September 6, 2023

Ms. Jacqueline Stevens
601 University Place, 2d floor
Political Science Department
Evanston, IL 60208

**RE: Stevens v. ICE 20-cv-2725
ICE FOIA Case Number 2020-ICLI-00042
Supplemental Release**

Dear Ms. Stevens:

This letter is a supplemental response to your client's Freedom of Information Act (FOIA) requests to U.S. Immigration and Customs Enforcement (ICE). Your client seeks records relating to the following Freedom of Information Act requests: 2018-ICFO-56530, 2020-ICFO-18634, 2019-ICFO-33429, 2019-ICFO-29171, 2018-ICFO-59138, and 2019-ICFO-24680. ICE has considered your request under the FOIA, 5 U.S.C. § 552.

For this production, ICE is making a discretionary re-release of 199 pages of records. ICE has reviewed the pages and determined that 77 pages will be released in full and portions of the remaining 122 pages will be withheld pursuant to FOIA Exemptions (b)(4), (b)(6), (b)(7)(C) and (b)(7)(E) as described below. The pages will retain their original Bates numbers.

FOIA Exemption 4 protects trade secrets and commercial or financial information obtained from a person that is privileged or confidential. This exemption covers two categories of information in federal agency records: (1) trade secrets; and (2) information that is commercial or financial, obtained from a person (which may include corporations or state governments), and privileged or confidential, which is both customarily and actually treated as private by the submitter of the information. *See Food Marketing Institute v. Argus Leader Media*, 139 S. Ct. 2356, 2362-63 (2019). I have reviewed the responsive documents, the submitter's objections to release, and relevant case law, and I have determined that portions of the responsive records are exempt from disclosure under subsection (b)(4) of the FOIA and must be withheld in order to protect the submitter's proprietary interests.

ICE has applied FOIA Exemptions 6 and 7(C) to protect from disclosure the personally identifiable information of DHS employees and third parties contained within the records.

FOIA Exemption 6 exempts from disclosure personnel or medical files and similar files the release of which would cause a clearly unwarranted invasion of personal privacy. This requires a balancing of the public's right to disclosure against the individual's right to privacy. The privacy

interests of the non-public-facing individuals in the records you have requested outweigh any minimal public interest in disclosure of the information. Any private interest you may have in that information does not factor into the aforementioned balancing test.

FOIA Exemption 7(C) protects records or information compiled for law enforcement purposes that could reasonably be expected to constitute an unwarranted invasion of personal privacy. This exemption takes note of the strong interests of individuals, whether they are suspects, witnesses, investigators, or individuals performing their official duties in connection with a law enforcement agency, in not being unwarrantably associated with alleged criminal activity or becoming targets for revenge by begrudged individuals. Based upon the traditional recognition of strong privacy interest in law enforcement records, categorical withholding of information that identifies third parties in law enforcement records is ordinarily appropriate. As such, I have determined that the privacy interest in the identities of the non-public-facing individuals in the records you have requested clearly outweigh any minimal public interest in disclosure of the information. Please note that any private interest you may have in that information does not factor into this determination.

FOIA Exemption 7(E) protects records compiled for law enforcement purposes, the release of which would disclose techniques and/or procedures for law enforcement investigations or prosecutions or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law. I have determined that disclosure of certain law enforcement sensitive information contained within the responsive records could reasonably be expected to risk circumvention of the law. Additionally, the techniques and procedures at issue are not well known to the public.

If you have any questions about this letter, please contact Assistant United States Attorney Alex Hartzler at Alex.Hartzler@usdoj.gov.

Sincerely,

Marcus K. Francis Sr.
Supervisory Paralegal Specialist

Enclosure: 199 pages

From: (b)(6); (b)(7)(C)
Sent: Monday, March 19, 2018 3:59 PM
To: (b)(6); (b)(7)(C); (b)(6); t@sbraxasyfs.com
Cc: (b)(6); (b)(7)(C)
Subject: Re: Abraxas Juveniles (Berks) - Proposal Request

Hello (b)(6); (b)(7)(C)

Thank you for taking the time to speak to us last Thursday. I had a discussion with (b)(6); (b)(6); (b)(6) Director of Finance for Abraxas) a few minutes ago. He and his department are working on analyzing the costs and putting together a rate increase justification for the current service we are providing. We should have something for you by early next week.

As I mentioned on the call last week, ICE has no "bought" beds at our facility. When a referral is made to our Detention Unit, we accept the ICE referral if we have space. Our census on Detention ebbs and flows. In general, the beds are assigned on a first come, first serve basis, with the caveat that we give preference when space gets tight to Berks County because they are the primary customer and we do a higher volume of business with them than others on Detention. (I should mention that we offer several other residential services to troubled youth in the same facility on other units. Detention is only one of six services at the Morgantown site.)

I assume ICE is hoping to find additional bed space in the near term. Therefore, I think what makes sense (from the perspective of time and expense) is for ICE to buy 9 guaranteed beds. We can accommodate this on our existing detention units if we reduce the number of admissions we take from customers that do not use us all that often. To guarantee more than 9 beds to ICE, we would have to activate an unused unit, hire new employees, make some physical plant renovations, etc. Setting aside 9 beds on already active units is certainly the quickest and most efficient option. I hope to have a more specific time frame to offer once we complete our planning discussions this week.

If ICE definitely needs 18 beds, we can accommodate. It will just take longer for us to prepare and ramp up.

We will be in touch soon. Please do not hesitate to give me a call with any questions. My desk phone number is 717-749-(b)(6); (b)(6); (b)(6)

Thank you!

(b)(6); (b)(7)(C)

MPA

DIVISIONAL DIRECTOR

Abraxas Youth & Family Services
10058 South Mountain Road, Building (b)(6);
South Mountain, Pennsylvania 17261

Tel: 717 749 (b)(6);

Mobile: 717 387 (b)(6);

Email: (b)(6);@abraxasyfs.com

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From: (b)(6); (b)(7)(C)@ice.dhs.gov>

Sent: Thursday, March 15, 2018 11:08:19 AM

To: (b)(6); (b)(7)(C)@sbraxasyfs.com

Cc: (b)(6); (b)(7)(C)

Subject: Abraxas Juveniles (Berks) - Proposal Request

Hello again. It was nice talking to you guys today.

Here's the recap:

Rate Increase:

You mentioned that a rate increase is requested for current services.

Please provide an explanation and justification / supporting documents for the requested new rate.

Updated Standards:

ICE is interested in incorporating the "Required Components for Juvenile Facilities" into our agreement.

If no additional costs above what is being requested for your rate increase for current services please state so.

If the updated requirements would incur additional costs, please highlight what those

requirements are and the associated cost.

You mentioned on the call that a major requirement which would increase costs would be the requirement for a masters level therapist over your current bachelors level therapist.

Please provide an explanation and the estimated cost impact. We will contact JFRMU to request a waiver after receipt of your pricing.

Additional Beds:

ICE would like to increase the number of beds available for ICE use from 2 to 18 (though you mentioned that the average has been ~3).

Could you please provide a brief explanation of what would be required to implement this change. You stated on the call that to set aside a number of beds to always be available to ICE would require a Guaranteed Minimum be added to the agreement.

Please state that in your response.

Also, please provide an estimated timeline which would be required to implement a change to the number of available beds and what our options may be.

For example: With no GM, what number of beds could be made available to ICE on an “as available” basis. If a GM can be implemented, what is the max number of beds you can set aside and when?

Other:

You asked if the juveniles would be coming from ICE or ORR. These detainees will be in ICE custody. ORR funds their own facilities and places their juveniles after accepting custody from ICE.

I’ll reach out to JFRMU to get some information on how they are estimating their required number of beds, and their level of confidence on the probability of fulfilling those beds and duration of the need for increased capacity.

Please let me know if I have missed anything or if you have any questions.

I’ll be out of the office 3/16 – 3/26, but (b)(6); (b)(7)(C) will be in the office to help with any requests.

Thank you and talk to you soon,

(b)(6); (b)(7)(C)

Detention, Compliance & Removals (DCR)

Section Chief

DHS | ICE | Office of Acquisition Management (OAQ)

801 "I" Street, N.W., Room (b)(6); (b)(7)(C)

Mail Stop (b)(6); (b)(7)(C)

Washington, D.C. 20536-5750

Phone: (202) 732-(b)(6); (b)(7)(C)

Cell: (202) 380-(b)(6); (b)(7)(C)