



**U.S. Immigration
and Customs
Enforcement**

March 20, 2019

Professor Jackie Stevens
Northwestern University
Political Science Department, 2d Floor
601 University Place
Evanston, IL 60208

**RE: Stevens v. DHS (N.D. Ill. 14-cv-3305)
FOIA Case Number 2013FOIA32547- (Detainee Volunteer Wages)
ICE FOIA 2015-ICLI-00026
First Supplemental Release**

Dear Professor Stevens,

This letter is the first supplemental release of the additional records located pursuant to a supplemental search ICE conducted in accordance with the parties' agreement reached in the fall of 2018 and in response to the ongoing Freedom of Information Act (FOIA) litigation between you and U.S. Immigration and Customs Enforcement (ICE), relating to FOIA requests submitted by you regarding, in part, ICE's detention facilities. Specifically, this supplemental production is in response to your August 24, 2013, FOIA request seeking records pertaining to Detainee Volunteer Wages and is a result of an agreement between you and ICE, as referenced above, by which ICE agreed to conduct a supplemental search of any records during a certain time period that may have been originated by 6 ICE employees and utilizing search terms you had provided and agreed to.

Your request has been processed under the FOIA, 5 U.S.C. § 552.

ICE processed 504 pages and determined that 78 pages were duplicates and 2 were nonresponsive. This release consists therefore of 424 pages of records located pursuant to a supplemental search as described above. These documents have been bates numbered **2015-ICLI-00026 SUPP 1 through 2015-ICLI-00026 SUPP 424**. After review of those records, ICE has determined that portions of those pages will be withheld pursuant to FOIA Exemptions (b)(5), (b)(6), (b)(7)(C) and (b)(7)(E) of the FOIA as described below.

ICE has applied FOIA Exemption (b)(5) to protect from public disclosure intra-agency documents that contain the recommendations, opinions, and conclusions of agency employees, and portions of the responsive documents which qualify for protection under the deliberative process privilege, the attorney-client privilege, and the attorney work-product privilege.

FOIA Exemption (b)(5) protects from disclosure those inter- or intra-agency documents that are normally privileged in the civil discovery context. The three most frequently invoked privileges

are the deliberative process privilege, the attorney work-product privilege, and the attorney-client privilege. After carefully reviewing the responsive documents, I have determined that portions of the responsive documents qualify for protection under the deliberative process privilege, the attorney-client privilege, or the attorney work-product privilege. The deliberative process privilege protects the integrity of the deliberative or decision-making processes within the agency by exempting from mandatory disclosure opinions, conclusions, and recommendations included within inter-agency or intra-agency memoranda or letters. The release of this internal information would discourage the expression of candid opinions and inhibit the free and frank exchange of information among agency personnel. The attorney work-product privilege protects documents and other memoranda prepared by an attorney in contemplation of litigation. The attorney-client privilege protects confidential communications between an attorney and his client relating to a legal matter for which the client has sought professional advice. It applies to facts divulged by a client to his attorney, and encompasses any opinions given by an attorney to his client based upon, and thus reflecting, those facts, as well as communications between attorneys that reflect client-supplied information. The attorney-client privilege is not limited to the context of litigation.

ICE has applied Exemptions (b)(6) and (b)(7)(C) of the FOIA to protect from disclosure, in part, the names, phone numbers, email addresses, and other personally identifiable information of ICE employees and contractor employees. Further ICE applied Exemptions (b)(6) and (b)(7)(C) to the names and A-file numbers of ICE detainees and to the names and addresses of other third parties.

FOIA Exemption (b)(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 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 (b)(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 particular note of the strong interests of individuals, whether they are suspects, witnesses, or investigators, in not being unwarrantably associated with alleged criminal activity. That interest extends to persons who are not only the subjects of the investigation, but those who may have their privacy invaded by having their identities and information about them revealed in connection with an investigation. 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, ICE has determined that the privacy interest in the identities of 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.

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ICE has applied FOIA Exemption (b)(7)(E) to protect from disclosure internal agency law enforcement case numbers, internal codes, agency software and hardware information, and instructional manuals, user manuals, and training materials related to a law enforcement system and database which contain law enforcement sensitive techniques and procedures that are not well known to the public. ICE has also applied FOIA Exemption (b)(7)(E) to protect from disclosure information 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 when such disclosure could reasonably be expected to risk circumvention of the law.

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.

ICE is continuing to process records in accordance with our agreement and will release those records to you on a rolling basis.

If you have any questions about this letter, please contact Assistant United States Attorney Prashant Kolluri at (312) 886-9085.

Sincerely,



for

Catrina M. Pavlik-Keenan
FOIA Officer

Enclosure(s): 424 pages