



October 5, 2023

Via Mail and E-Mail

U.S. Immigration and Customs Enforcement
Freedom of Information Act Office
500 12th Street, S.W., Stop 5009
Washington, DC 20536
ICE-FOIA@dhs.gov

RE: FREEDOM OF INFORMATION ACT REQUEST – RELEASE PRACTICES

Dear Freedom of Information Officer:

Robert F. Kennedy Human Rights (“RFK Human Rights”), American Civil Liberties Union of Louisiana (“ACLU-LA”), and New York Civil Liberties Union (“NYCLU”) (collectively “Requestors” or “we”), pursuant to the provisions of the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552 *et seq.*, as amended, and applicable agency regulations, request copies of the records identified in the numbered paragraphs below from the United States Immigration and Customs Enforcement (“ICE” or “the Agency”).¹

We are also requesting expedited processing for this request, pursuant to 5 U.S.C. § 552(a)(6)(E) and agency regulations, and a fee waiver, pursuant to 5 U.S.C. § 552(a)(4)(A)(iii). 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.

Purpose of the Request for Information

The New Orleans Immigration and Customs Enforcement Field Office (the “NOLA ICE Field Office”) area of responsibility (“NOLA ICE AOR”) includes Louisiana, Mississippi, Alabama, Arkansas, and Tennessee. As of September 18, 2023, active detention facilities within the

¹ We ask that you please direct this request to all appropriate offices and components within ICE including, but not limited to: Adams County Correctional Center (“Adams County”); Winn Correctional Center (“Winn”); Central Louisiana Immigrant Processing Center (“Jena LaSalle”); Jackson Parish Correctional Center (“Jackson Parish”); South Louisiana Immigrant Processing Center (“Basile”); Richwood Correctional Center (“Richwood”); Pine Prairie Immigrant Processing Center (“Pine Prairie”); River Correctional Center (“River”); Allen Parish Public Safety Complex (“Allen Parish”); Alexandria Staging Facility; New Orleans Field Office Enforcement and Removal Operations; Office of Detention Policy and Planning; Detention Standards Compliance Unit, Detention Management Division; Segregation Review Coordinator; Detention Service Managers (“DSM”); Custody Management Division (“CMD”); ICE Health Service Corps (“IHSC”); Facility Administrators that report to the New Orleans Field Office; and the Detention Monitoring Council (“DMC”).

NOLA ICE AOR detain an average of 5,401 people.² The documented human rights and civil rights abuses within the ICE detention facilities under the purview of the NOLA ICE Field Office have generated public interest and concern in recent years. Although reports of human rights abuses and violations are common in ICE detention,³ the culture of abuse and rampant legal impunity within the NOLA ICE AOR have set it apart.⁴ Through years of advocacy on behalf of clients and other detained people, Requesters and others have documented systemic abuses within all 10 active facilities under the NOLA ICE Field Office, including reports of torture, physical abuse, threats of violence, anti-Black racism, threatened and deployed solitary confinement, deprivation of basic human necessities, including life-saving medical care, and retaliation in response to reported grievances. The facilities' egregious conditions of confinement and unsafe release practices have led to serious injury and even death.

Due to the lack of transparency in ICE's operations, even advocates and attorneys who work closely with detained individuals describe ICE's practices in the NOLA ICE AOR as a "black box."⁵ This FOIA request is necessary to bring transparency to the Agency's activities in the NOLA ICE AOR that are otherwise nearly entirely hidden from public view.

Requesters regularly witness and hear from individuals detained in NOLA ICE Field Office facilities about ICE's violations of its statutory obligations, its contractual obligations, its constitutional obligations, its obligations under international human rights and refugee law, and its obligations under its own standards to "improve safety, security and conditions of

² See Transactional Records Access Clearinghouse, Detention Facilities Average Daily Population, <https://trac.syr.edu/immigration/detentionstats/facilities.html>.

³ See, e.g., Chris Rickerd & Cristina Velez, National Immigration Project, *Complaints Ignored, Abuses Excused: Why the Department of Homeland Security's Internal Accountability Mechanisms Must Be Reformed* (Sirine Shebaya ed., Apr. 2021), https://nipnlg.org/sites/default/files/2023-03/2021_27Apr_ice-report.pdf; Eunice Hyunhye Cho, ACLU National Prison Project & Joanna Naples-Mitchell, Physicians for Human Rights, *Behind Closed Doors: Abuse and Retaliation Against Hunger Strikers in U.S. Immigration Detention* (2021), https://www.aclu.org/sites/default/files/field_document/aclu_phr_behind_closed_doors_final_1.pdf.

⁴ See, e.g., Letter to The Honorable Alejandro Mayorkas, Secretary, United States Department of Homeland Security, *Unchecked Human Rights and Civil Rights Abuses Systemic within the New Orleans ICE Field Office Area of Responsibility* (Dec. 20, 2021), <https://static1.squarespace.com/static/5a33042eb078691c386e7bce/t/61c0b47c15319f67d4045ca3/1640019069450/12%3A20%3A21+DHS+NOLA+ICE+Investigation+Follow-Up+Letter+%282%29.pdf>.

⁵ In August 2021, following over 200 allegations since 2021 by advocates and attorneys, the Department of Homeland Security ("DHS") Office of Civil Rights and Civil Liberties ("CRCL") launched an unprecedented investigation into the entire NOLA ICE AOR. To date, CRCL has not released the findings of this investigation. See Letter from DHS CRCL to Tae D. Johnson and Kerry E. Doyle, *ICE's Oversight of the New Orleans Field Office, Complaint Nos. 001278-21-ICE, 000993-21-ICE, 002483-21-ICE, 002240-21-ICE, 000101-21-ICE, 000102-21-ICE, 000890-21-ICE, 001523-21-ICE, 002407-21-ICE, 000377-21-ICE, and 000667-21-ICE* (Dec. 7, 2021), https://www.dhs.gov/sites/default/files/2022-08/2021.12.07%20CRCL%20Retention%20Memo%20to%20ICE%20-%20Oversight%20of%20New%20Orleans%20AOR%20-%20Redacted_508.pdf.

confinement for detainees” (“Performance-Based National Detention Standards” or “PBNDS”).⁶ These violations include *unsafe release practices*, including releasing people without accommodations for physical and mental health disabilities and other special vulnerabilities, without access to medications and necessary continuum plans for medical care, and without sufficient notice to family members and advocates to arrange shelter and travel.

In addition, Requestors have received reports of detained individuals with severe medical conditions being subject to deportation with no access to medication or a continuum of life-sustaining medical care and with insufficient medical approval to travel. For example, one individual detained at River Correctional Center in Ferriday, Louisiana had an eight pound hernia that required urgent surgical intervention. In November 2022, against the expert medical opinion of a physician consulted by his counsel, this individual was deported to Nicaragua. He was “medically cleared to travel” by a Family Nurse Practitioner contracted by ICE, lacking the medical expertise necessary to assess this individual’s emergent medical needs and condition.

Requesters include national and local immigrant rights advocates and organizations that provide legal representation to individuals detained at the NOLA ICE Field Office facilities. Requesters work closely with people detained at these facilities and advocate alongside them. Knowledge of the conditions in which they are held are relevant for Requesters’ representation of people detained at the NOLA ICE facilities and for Requesters’ advocacy efforts to ensure the rights of people detained at these facilities are respected. Requesters have a vested interest in the conditions in which their clients and community members are held.

Requesters urgently seek information on the federal government’s policies, directives, and actions relating to the release of immigrants from the NOLA ICE facilities. The public has a right to know what happens in the “black box” of ICE custody in their region. The disclosure of the information sought below will contribute to “public understanding of the operations or activities of the government,” 5 U.S.C. § 552(a)(4)(A)(iii), and provide the public with information necessary to engage in the democratic process and public debate regarding the use of ICE detention in the NOLA region. Disclosure would thus be “in the public interest.” 28 C.F.R. § 16.10(k); *see also* 6 C.F.R. § 5.11(k)(1)(i).

Definitions

The records request below incorporates the following definitions:

“Communication” refers to the transmittal of information in any format, including, but not limited to, the communication formats listed under “Record.”

⁶ *ICE Detention Standards*, Immigration and Customs Enforcement (Feb. 24, 2023), <https://www.ice.gov/factsheets/facilities-pbnds>.

“Contract” or “Government Contract” refers to any agreement or modification thereof between any contracting agency and any person or entity for the purchase, sale, or use of personal property or nonpersonal services.

“Contractor” refers to any person or entity holding, or who has ever held or sought to hold, a Government Contract as defined in 41 CFR § 60-1.3. Any reference herein to a specific contractor or a contractor in general also refers to any division, subsidiary, or affiliate thereof and to their employees.

“Custody” refers to the state of being under the control of ICE or a third party at the direction of ICE based on purported violation of the Immigration and Nationality Act.

“Detain” or “Detention” refers to the act of ICE, whether by Agency personnel or a third party at the direction of ICE or Agency personnel, taking an individual into the custody of the United States government based on purported violations of the Immigration and Nationality Act, including but not limited to placement in a local or state jail or prison, including through Intergovernmental Service Agreement facilities, 287(g) agreements, private facilities, and federal facilities.

“Facility” or “ICE Facility” refers to any physical location where individuals are held pursuant to ICE Custody.

“New Orleans Field Office” refers to the geographical area that ICE considers within the “area of responsibility” or jurisdiction of the ICE New Orleans Field Office. ICE detention facilities including Adams County, Winn, Jena LaSalle, Jackson Parish, Basile, Richwood, Pine Prairie, River, Allen Parish, and the Alexandria Staging Facility are located within the New Orleans Field Office.

“Personnel” refers to an individual employed by an organization or authorized to act on behalf of an organization, including employees, contractors, contractors’ employees, agents, or representatives.

“Record” refers to any information in electronic, written, and/or printed form that is in ICE’s constructive possession, directly or indirectly, regardless of where or how the information originated or where or how ICE received it, encompassing but not limited to any information in the custody of any U.S. government contractors for purposes of information management for ICE, and including but not limited to: messaging communications between phones or other electronic devices, including but not limited to communications sent via short message service (“SMS”), multimedia message service (“MMS”), or any other messaging service, via Blackberry Messenger, iMessage, WhatsApp, Facebook, Signal, G-Chat, Instagram direct message, Twitter direct message, Slack, and/or any other messaging and communications platform; emails, letters, faxes, and/or any other form of correspondence; minutes and/or notes of meetings and/or phone calls; voicemail messages; images, video, and/or audio data; social media posts; calendar entries; files and their contents, including any notes; logs, spreadsheets, worksheets, and/or coversheets; database entries, analyses of data; metadata; investigations, reports, studies, and/or reviews; internal memoranda; contracts, agreements, and/or memoranda of understanding, including but

not limited to intergovernmental services agreements; presentations, formal or informal; training criteria, standards, evaluations, and/or materials; orders, directives, and/or instructions; legal opinions and/or memoranda; policies, procedures, protocols, and/or manuals; guidance and/or guidelines; bulletins, advisories, and/or alerts; as well as any reproductions thereof that differ in any way from any other reproduction, such as copies containing notations, drafts, and revisions.

In requesting “policies” and “guidance,” the Requesters seek national policies and guidance, as well as policies and guidance specific to a facility or the New Orleans Field Office, in any format, including memoranda. However, Requesters do not refer to or seek copies of the Performance-Based National Detention Standards, unless annotated or incorporated in another record.

In requesting “correspondence” and “Communications,” the Requesters seek any record of written correspondence or verbal correspondence, whether formal or informal, in any format, including intra-Agency, inter-Agency correspondence, and Agency correspondence with third-parties. The date range for all searches should be understood to commence with each provided start date and to end on the date the search for documents responsive to that request is commenced by the Agency. *See Ferguson v. U.S. Dep’t of Educ.*, 2011 WL 4089880, at *11 (S.D.N.Y. Sept. 13, 2011) (commencement date of agency’s search was reasonable cut-off date).

Request for Information

Release Protocols and Practices

1. Records created since January 1, 2021 sufficient to show release practices in compliance with PBNDS § 2.1(V)(I), including the provision of (i) sufficient advanced notice to individuals being released; (ii) a free phone call prior to release; (iii) accommodations or adjustments to account for “special vulnerabilities”; (iv) food and water upon release; (v) medication upon release; and (vi) payment by ICE for transportation of released individuals on non-ICE chartered vehicles, including buses, trains, taxis, and commercial planes.
2. Records created since January 1, 2021 regarding coordination with nongovernmental organizations related to services for released individuals, including but not limited to flights and hotels.
3. Records created since January 1, 2021 regarding any instances where a free phone call was not made by a detained person before release and any instances where a free phone call was not made more than 2 hours before release.
4. Records created since January 1, 2021 regarding any instances where ICE denied or delayed release of an individual due to insufficient funds in their commissary.
5. Records created since January 1, 2021 regarding the existence of, or communication to detained people of, a minimum amount of commissary funds an individual is required to have in order to be released.

6. Records created since January 1, 2021 regarding any instances where ICE denied or delayed release of an individual otherwise cleared for release due to lack of a fixed address or competency concerns.
7. Records reflecting policies or protocols in force on or after January 1, 2021 regarding measures taken to ensure individuals with ongoing medical issues and/or known medical conditions are released in a safe manner, including any continuum of medical care plans created by ICE and/or facility personnel.
8. Records reflecting policies or protocols in force on or after January 1, 2021 regarding measures taken to ensure individuals with known or suspected mental or physical disabilities or “special vulnerabilities” are released in a safe manner, including any individualized release plans created by ICE outlining specific actions taken and efforts made to ensure an individual released is safely transported to their final destination.
9. Records reflecting policies, protocols, or guidance in force on or after January 1, 2021 on obtaining “medical clearance to travel” for individuals subject to deportation, including the factors assessed and the review process for such approval.
10. Records reflecting policies or protocols in force on or after January 1, 2021 regarding providing funds or bus fare to individuals who do not have sufficient funds in their commissary to purchase a bus ticket to their destination.
11. Records reflecting policies, protocols, rules, or instructions in force on or after January 1, 2021 regarding food preparation for individuals in processing for release.

Format of Production

The Requesters request that responsive documents and materials be produced *in their entirety*, including all attachments, enclosures, hyperlinks and internal links, and exhibits. If it is determined that a document contains material or information that falls within a statutory exemption to mandatory disclosure under FOIA, the Requesters ask that such material or information be reviewed for possible discretionary disclosure, consistent with the presumption of openness codified in the Freedom of Information Act Improvement Act of 2016, Pub. L. 114-185, 130 Stat. 538.

Please search for responsive records regardless of format, medium, or physical characteristics, and including electronic records. Please provide the requested documents as follows:

- Data records in native format when possible (e.g., Excel spreadsheets in Excel);
- Other records in PDF format when possible;
- Electronically searchable when possible;
- Email attachments provided in sequential order following the email, to preserve the “parent-child” relationship, such that Requesters are able to identify which documents were the attachments to which emails;

- Email parents include BCC and any other hidden fields; and
- Other metadata preserved for all records.

Please furnish all applicable Records in electronic format as specified above via email to: Sarah Decker at decker@rfkhumanrights.org and Sarah Gillman at gillman@rfkhumanrights.org.

Expedited Processing

We request expedited treatment for this FOIA request. This request qualifies for expedited treatment pursuant to 5 U.S.C. § 552(a)(6)(E) and applicable regulations. As demonstrated above, there is a “compelling need” for expedited processing sought by the Requesters. 5 U.S.C. § 552(a)(6)(E)(i)(I). The lack of expedited disclosure of records could “reasonably be expected to pose an imminent threat to the life or physical safety of an individual.” 5 U.S.C. § 552(a)(6)(E)(v)(I); 6 C.F.R. § 5.5(d)(1)(i). Moreover, there exists a clear “urgency to inform the public concerning actual or alleged Federal Government activity.” 5 U.S.C. § 552(a)(6)(E)(v)(II); *see also* 6 C.F.R. § 5.5(e)(1)(ii) (Expedited processing is warranted where there is “[a]n urgency to inform the public about an actual or alleged federal government activity.”). The Requesters are therefore entitled to expedited processing of this request.

Fee Waiver Request

Pursuant to 5 U.S.C. § 552(a)(4)(A)(iii), the Requesters apply for a fee waiver. FOIA and applicable agency regulations require fees to be waived when it is determined, based upon the submission of the requester, that the information 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.” 5 U.S.C. § 552(a)(4)(A)(iii); *see also* 5 C.F.R. § 5.11(k)(1) (permitting fee waiver when “disclosure of the requested information is in the public interest” and “is not primarily in the commercial interest of the requester”); 28 C.F.R. § 16.10(k) (“Requesters may seek a waiver of fees by . . . demonstrating how disclosure of the requested 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.”).

Requesters are non-profit organizations that advocate alongside individuals detained at facilities in the New Orleans ICE Field Office. Access to this information is crucial for the Requesters and the communities they serve to evaluate immigration enforcement actions in their communities, including the conditions of confinement and protocols for detention, confinement and release, and their potential detrimental effects in their communities.

RFK HR

RFK HR is a non-partisan, not-for-profit organization that advocates for human rights issues and pursues strategic litigation to hold governments accountable for human rights abuses, including by pursuing immigrants’ rights and anti-detention advocacy and litigation. RFK HR is committed to transparency, government accountability, and education. Obtaining information about government activity, analyzing that information, and widely publishing and disseminating

it to the press and the public is a critical and substantial component of RFK HR's work. RFK HR regularly publishes in-depth analysis of current events affecting human rights and disseminates information to expose injustice. RFK HR disseminates content through its website—<https://rfkhumanrights.org/>—and by publishing reports, issuing press releases, and making public statements that reach thousands.

ACLU-LA

ACLU-LA is a not-for-profit organization that works to advance and preserve the individual rights and liberties guaranteed by the Constitution and laws of the United States and the State of Louisiana in matters that affect civil liberties and human rights, including the rights of prisoners and immigrants. ACLU-LA is committed to principles of transparency and accountability in government and seeks to ensure that the American public is informed about the conduct of its government in matters that affect civil liberties and human rights. Obtaining information about government activity, analyzing that information, and widely publishing and disseminating it to the press and the public is a critical and substantial component of the ACLU-LU's work. ACLU-LA regularly issues press releases to call attention to documents obtained through FOIA requests, as well as other civil liberties-related current events. ACLU-LA also publishes "know your rights" materials designed to educate the public about immigrants' rights. ACLU-LU disseminates content through its website—<https://www.laclu.org/>—and quarterly newsletters received by thousands of subscribers.

NYCLU

NYCLU is the New York State affiliate of the ACLU. NYCLU is a not-for-profit organization that is committed to ensuring that the U.S. government complies with the Constitution and laws of this country in matters that affect civil liberties and human rights. NYCLU is committed to principles of transparency and accountability, and seeks to ensure that the public is informed about the conduct of the U.S. government in matters that affect civil liberties and human rights. Obtaining information about governmental activity, analyzing that information, and widely publishing and disseminating it to the press and the public is a critical and substantial component of NYCLU's work. To inform the public about government conduct affecting legal rights, NYCLU publishes newsletters, press releases, and know-your-rights handbooks. NYCLU publications are publicly available for no cost or for a nominal fee. NYCLU also disseminates information through its website—www.nyclu.org—and through an electronic newsletter, which is received by thousands of subscribers.

The Requesters will make any information that they receive from these requests available to the public, including the press, at no cost. As detailed above, the conditions of immigrants detained in the NOLA ICE AOR is of significant public interest. The Requesters have undertaken this work in the public interest and not for any private commercial interest. Access to this information is necessary for the public to meaningfully evaluate the consequences of federal immigration policies and the operations of immigration detention facilities in their communities to which the public has no other way of gaining visibility. The Government must waive or, at minimum, reduce any fees because the Requesters have no commercial interest in the requested

information. They request this information to educate the public regarding the Government's operations and activities. *See* 5 U.S.C. § 552(a)(4)(A)(iii).

If a fee waiver is not granted, Requesters in the alternative ask for a limitation of processing fees pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II) (“[F]ees shall be limited to reasonable standard charges for document duplication when records are not sought for commercial use and the request is made by . . . a representative of the news media.”). *See also* 6 C.F.R. § 5.11(d)(1) (“No search fees will be charged for requests by . . . representatives of the news media, unless the records are sought for a commercial use.”).

Conclusion

Thank you for your consideration of this request. There is an urgent need to inform the public of the policies and practices in immigration detention centers in the NOLA ICE AOR, where the release of immigrants in ICE custody has resulted and will continue to result in constitutional rights violations, public health risks, and even death. This information assist advocates defending the rights of detained people in NOLA ICE facilities.

If this request is denied in whole or part, the Requesters ask that ICE justify all deletions or redactions by reference to specific exemptions of FOIA. The Requesters expect ICE to release all segregable portions of otherwise exempt material, and reserve the right to appeal a decision to withhold any records or to deny Requesters' application for waiver of fees.

We look forward to your reply to the request for expedited processing within 10 business days, as required under 5 U.S.C. § 552(a)(6)(E)(ii)(I). Notwithstanding your decision on the matter of expedited processing, we look forward to your reply to the records request within 20 business days, as required under 5 U.S.C. § 552(a)(6)(A)(I). In the event the Government is unable to meet that deadline, the Requesters are willing to discuss an appropriate schedule for rolling productions.

If you have any questions regarding the processing of this request, please contact Sarah Decker at 908-967-3245 or decker@rfkhumanrights.org, or Sarah Gillman at 646-289-5593 or gillman@rfkhumanrights.org.

Certification

The Requesters certify that the above information is true and correct to the best of the Requesters' knowledge. *See* 6 C.F.R. § 5.5(e)(3).

Sincerely,

A handwritten signature in dark ink, appearing to read "Sarah Decker". The signature is fluid and cursive, with the first name "Sarah" and last name "Decker" clearly distinguishable.

Sarah Decker, Esq.

Sarah Gillman, Esq.

Robert F. Kennedy Human Rights

Nora Ahmed, Esq.

ACLU of Louisiana

Amy Belsher, Esq.

New York Civil Liberties Union