

Exhibit C

U.S. Department of Homeland Security
500 12th Street, S.W., Stop 5009
Washington, DC 20536-5009



U.S. Immigration
and Customs
Enforcement

May 20, 2014

DAVID GLUCKMAN
MUCKROCK NEWS
DEPT MR 7040
P.O. BOX 55819
BOSTON, MA 02205-5819

Re: **ICE FOIA Case Number 2014FOIA01723**

Dear Mr. Gluckman.

This letter is the final response to your Freedom of Information Act (FOIA) request to U.S. Immigration and Customs Enforcement (ICE) dated October 09, 2013. You have requested the following records:

1. Any and all records containing instruction, guidance, or direction for ICE employees, investigators, field offices, or contractors working with, for, or under the direction of ICE, when conducting Form 1-9 inspections, related to classifying Form 1-9 violations as "technical" or "substantive," created, developed, maintained, used, implemented, and/or disseminated (internally or externally) by ICE on or after November 25, 2008; and
2. Any and all records containing instruction, guidance, or direction for ICE employees, investigators, field offices, or contractors working with, for, or under the direction of ICE, when conducting Form 1-9 inspections, related to calculating fine amounts for Form 1-9 violations, that were created, developed, maintained, used, implemented, and/or disseminated (internally or externally) by ICE on or after November 25, 2008

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

A search of the ICE Office of Homeland Security Investigations (HSI) for records responsive to your request produced one Microsoft Excel spreadsheet and 36 pages. After a review of those documents, ICE has determined that 23 pages and the Excel spreadsheet will be released in their entirety. Portions of the remaining 13 pages will be withheld pursuant to Exemptions (b)(6) and (b)(7)(C) and (b)(7)(E) of the FOIA as described below.

ICE has applied FOIA Exemption 5 to protect from disclosure deliberative material relating to a specific worksite enforcement matter.

FOIA Exemption 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, ICE has determined that portions

of the responsive documents qualify for protection under the deliberative process 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.

ICE has applied Exemptions 6 and 7(C) to protect from disclosure the names, e-mail addresses, and phone numbers of DHS employees contained within the documents.

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 privacy. The types of documents and/or information that we have withheld may consist of social security numbers, home addresses, dates of birth, or various other documents and/or information belonging to a third party that are considered personal. 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 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, I have 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.

ICE has applied Exemption 7(E) to protect from disclosure law enforcement sensitive investigatory practices.

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 law enforcement sensitive information could reasonably be expected to risk circumvention of the law. Additionally, the techniques and procedures at issue are not well known to the public.

You have the right to appeal ICE's determination and should you wish to do so, please send your appeal following the procedures outlined in the DHS regulations at 6 Code of Federal Regulations § 5.9 and a copy of this letter to:

U.S. Immigration Customs Enforcement
Office of Principal Legal Advisor
U.S. Department of Homeland Security
Freedom of Information Office
500 12th Street, S.W., Stop 5009
Washington, D.C. 20536-5009

Your appeal must be received within 60 days of the date of this letter. Your envelope and letter should be marked "FOIA Appeal." Copies of the FOIA and DHS regulations are available at www.dhs.gov/foia.

The Office of Government Information Services (OGIS) also mediates disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. If you wish to contact OGIS, you may email them at ogis@nara.gov or call 1-877-684-6448.

Provisions of the FOIA and Privacy Act allow us to recover part of the cost of complying with your request. In this instance, because the cost is below the \$14 minimum, there is no charge.¹

If you need to contact the FOIA office about this matter, please call (866) 633-1182 and refer to case number **2014FOIA01723**.

Sincerely,



for
Catrina M. Pavlik-Keenan
FOIA Officer

Enclosures: 1 CD, 36 Pages and 1 Excel Spreadsheets

¹ 6 CFR § 5.11(d)(4).