

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

<b>FREDDY MARTINEZ,</b>	)
1435 Newton Street NW, #114	)
Washington, D.C., 20010	)
	)
<b>Plaintiff,</b>	)
	)
<b>v.</b>	)
	)
<b>U.S. DEPARTMENT OF HOMELAND</b>	)
<b>SECURITY,</b>	)
2707 Martin Luther King Jr. Avenue SE	)
Washington, D.C. 20528	)
	)
<b>U.S. IMMIGRATION AND CUSTOMS</b>	)
<b>ENFORCEMENT,</b>	)
500 12th St., SW	)
Washington, D.C. 20536	)
	)
<b>Defendants.</b>	)

**COMPLAINT**

1. Plaintiff, FREDDY MARTINEZ, files this Freedom of Information Act suit to force Defendants U.S. DEPARTMENT OF HOMELAND SECURITY (“DHS”) and U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT (“ICE”) to comply with MARTINEZ’s FOIA requests for various records pertaining to “Operation Palladium,” which has been described as “24-hour-a-day surveillance operations around the homes and workplaces of undocumented immigrants” in sanctuary cities across the country.<sup>1</sup> The directive of Operation Palladium is to “[a]rrest as many undocumented immigrants as possible and ‘flood the streets.’”<sup>2</sup>

**PARTIES**

2. Plaintiff FREDDY MARTINEZ made the FOIA requests at issue in this case.

<sup>1</sup> Caitlin Dickerson, Zolan Kanno Youngs, and Annie Correal, *‘Flood the Streets’: ICE Targets Sanctuary Cities with Increased Surveillance*, The New York Times, (March 5, 2020), <https://www.nytimes.com/2020/03/05/us/ICE-BORTAC-sanctuary-cities.html>.

<sup>2</sup> *Id.*

3. Defendant U.S. DEPARTMENT OF HOMELAND SECURITY (“DHS”) is a federal agency subject to the Freedom of Information Act, 5 U.S.C. § 552.

4. Defendant U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT (“ICE”) is a component of DHS and federal agency subject to the Freedom of Information Act, 5 U.S.C. § 552.

### **JURISDICTION AND VENUE**

5. This case is brought under 5 U.S.C. § 552(a)(4)(B) and presents a federal question conferring jurisdiction on this Court. *See* 28 U.S.C. § 1331.

6. Venue is proper under 5 U.S.C. § 552(a)(4)(B).

### **APRIL 6, 2020, FOIA REQUEST TO ICE**

7. On April 6, 2020, MARTINEZ submitted a FOIA request to ICE for [1] “Documents sufficient to show the scope, purpose, and objectives of ‘Operation Palladium’”; [2] “Documents sufficient to show the number of offices assigned to Operation Palladium”; and [3] “Communications between ICE, DHS, and other law enforcement agencies for the implementation of Operation Palladium.” To aid ICE’s search, MARTINEZ included a link to *The New York Times* article, published on March 5, 2020, that discusses Operation Palladium in detail. Exhibit A at 1.

8. On April 7, 2020, ICE acknowledged receipt of the request, assigned reference number 2020-ICFO-31802, and stated that the request was “too broad in scope.” Exhibit A at 2.

9. More specifically, ICE stated that the request did not “identify the records” MARTINEZ is seeking. Exhibit A at 2.

10. On April 9, 2020, MARTINEZ appealed the denial. Exhibit A at 2.

11. On April 22, 2020, ICE acknowledged receipt of the appeal and assigned reference number 2020-ICAP-00295 to the appeal. Exhibit B.

12. On May 19, 2020, ICE determined that “new search(es) or modifications to the existing search(es) could be made.” ICE remanded the appeal to the ICE FOIA Office for “processing and re-tasking” to obtain any responsive documents. Exhibit C.

13. On July 30, 2020, MARTINEZ requested an estimated completion date of the remanded appeal, but ICE never responded. Exhibit A at 3.

14. Having received no response from ICE, MARTINEZ requested an estimated completion date of the remanded appeal on January 25, 2021, but ICE never responded. Exhibit D

15. As of the date of this filing, ICE has not issued a remanded determination.

16. As of the date of this filing, ICE has produced no records responsive to the request. Nor has Defendant complied with the statutory requirement under 5 U.S.C. § 552(a)(7)(B)(ii) to furnish an estimated completion date when requested.

#### **APRIL 6, 2020, FOIA REQUEST TO DHS**

17. On April 6, 2020, MARTINEZ submitted a FOIA request to DHS for [1] “Documents sufficient to show the scope, purpose, and objectives of ‘Operation Palladium’”; [2] “Documents sufficient to show the number of offices assigned to Operation Palladium”; and [3] “Communications between ICE, DHS, and other law enforcement agencies for the implementation of Operation Palladium.” To aid DHS’s search, MARTINEZ included a link to *The New York Times* article, published on March 5, 2020, that discusses Operation Palladium in detail. Exhibit E at 1.

18. On April 7, 2020, DHS acknowledged receipt of the request, assigned reference number 2020-HQFO-00846 to the matter, and issued a final response letter stating that the request will be transferred to ICE. Exhibit F.

19. On April 9, 2020, MARTINEZ submitted an appeal. MARTINEZ specified that he is seeking all records “that DHS has a copy of, in a joint operation with ICE.” Exhibit E at 2.

20. On September 21, 2020, DHS acknowledged receipt of the appeal and assigned reference number 2020-HQAP-00179 to the appeal. Exhibit G.

21. On January 8, 2021, DHS affirmed its denial. Exhibit H.

22. DHS claimed that DHS has “no mechanism” to search all of the records under DHS’ control as a whole. *Id.*

23. DHS further stated that MARTINEZ “did not specify which agency/office/component to search.” *Id.*

24. According to the original request and reiterated in the appeal, it is clear that MARTINEZ sought records that DHS possesses or has created in its joint operation with ICE. Exhibit D at 1-2.

25. DHS has not conducted a reasonable search for the requested records.

26. As of the date of this filing, DHS has not complied with FOIA and has produced no records responsive to the request.

**COUNT I – ICE’S FOIA VIOLATION: FAILURE TO PRODUCE RECORDS**

27. The above paragraphs are incorporated herein.

28. ICE is a federal agency, subject to FOIA.

29. The requested records are not exempt under FOIA.

30. ICE has failed to produce records responsive to the request.

**COUNT II – ICE’S FOIA VIOLATION: FAILURE TO CONDUCT A REASONABLE SEARCH**

31. The above paragraphs are incorporated herein.
32. ICE is a federal agency, subject to FOIA.
33. The requested records are not exempt under FOIA.
34. ICE has failed to conduct a reasonable search for the requested records.

**COUNT III – DHS’S FOIA VIOLATION: FAILURE TO PRODUCE RECORDS**

35. The above paragraphs are incorporated herein.
36. DHS is a federal agency, subject to FOIA.
37. The requested records are not exempt under FOIA.
38. DHS has failed to produce records responsive to the request.

**COUNT IV - DHS’S FOIA VIOLATION: FAILURE TO CONDUCT A REASONABLE SEARCH**

39. The above paragraphs are incorporated herein.
40. DHS is a federal agency, subject to FOIA.
41. The requested records are not exempt under FOIA.
42. DHS has failed to conduct a reasonable search for the requested records.

**WHEREFORE**, MARTINEZ asks the Court to:

- i. declare that Defendants have violated FOIA;
- ii. order Defendants to conduct a reasonable search for records and to promptly produce the requested records;
- iii. enjoin Defendants from withholding non-exempt public records under FOIA;
- iv. award MARTINEZ attorneys’ fees and costs; and
- v. enter any other relief the Court deems appropriate.

Dated: February 8, 2021

Respectfully Submitted,

/s/ Joshua H. Burday

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FREDDY MARTINEZ

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