

**IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

AL OTRO LADO
1200 N State St #1008
Los Angeles, CA 90033

Plaintiff

v.

U.S. IMMIGRATION AND CUSTOMS
ENFORCEMENT
500 12th St., SW
Washington, DC 20536

U.S. DEPARTMENT OF HOMELAND
SECURITY
2707 Martin Luther King Jr Ave SE 5
Washington, DC 20528-0525

U.S. DEPARTMENT OF HOMELAND
SECURITY
OFFICE FOR CIVIL RIGHTS AND CIVIL
LIBERTIES
2707 Martin Luther King, Jr. Avenue, SE
Mail Stop #0190
Washington, DC 20528-0190

U.S. CITIZENSHIP AND IMMIGRATION
SERVICES
111 Massachusetts Ave NW
Washington, DC 20001

Defendants

Civil Action No. _____

COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

PRELIMINARY STATEMENT

1. This is an action under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, and the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202. Plaintiffs seek records from Defendants U.S. Department of Homeland Security (“DHS”), two of its component sub agencies, U.S. Immigration and Customs Enforcement (“ICE”) and U.S. Citizenship and Immigration Services (“USCIS”), and the DHS Office for Civil Rights and Civil Liberties (“CRCL”), relating to, first, the death of December 17, 2020 death of Anthony Jones in ICE custody at Adams County Detention Center (“ACDC”) in Natchez, Mississippi and, second, to January 14, 2021 ICE assaults of detained asylum seekers at Winn Correctional Center (“WCC”) in Winnfield, Louisiana.

2. The records sought by Requesters’ FOIA requests are critically important to inform the general public and assist them in understanding how the U.S. government treats people in its custody. This information is important in aiding public debate over the extent to which funding detention by ICE is a good use of the government’s tax revenues.¹

¹ See e.g. *Chairwoman Roybal-Allard Statement at Hearing on FY 2021 ICE Budget Request*, Mar. 11, 2020, House Committee on Appropriations, <https://appropriations.house.gov/news/statements/chairwoman-roybal-allard-statement-at-hearing-on-fy-2021-ice-budget-request>; Julian Resendiz, *Activists want Biden to defund ICE, overhaul migrant detention policies*, Border Report, Jan. 22, 2021, <https://www.borderreport.com/hot-topics/immigration/activists-want-biden-to-defund-ice-overhaul-migrant-detention-policies/>; Dara Lind, “*Abolish ICE,*” *explained*, Vox, Jun. 28, 2018, <https://www.vox.com/policy-and-politics/2018/3/19/17116980/ice-abolish-immigration-arrest-deport>;

3. The public would also benefit from information about operations of the New Orleans ICE Field Office, which oversees the operation of both ACDC and WCC by private prison companies CoreCivic and Lasalle Corrections respectively. Detention centers within the New Orleans ICE Field Office's area of responsibility have developed a reputation for brutality.² As such, records relating to ICE's handling of abuse and death cases at these detention centers would aid the public in determining whether ICE is exercising proper oversight authority over its contractors and whether the government should contract with private prison contractors at all.³

4. Plaintiff therefore seeks records shedding light on the circumstances surrounding these and similar abuses at ICE detention centers, declaratory relief that DHS, ICE, and USCIS are in violation of FOIA, and injunctive relief requiring those agencies to immediately process and release the requested records.

JURISDICTION AND VENUE

² See e.g. Senators Elizabeth Warren, Cory A. Booker et. al, *Letter to ICE and DHS re Forced Deportations of Asylum Seekers*, Feb. 25, 2021, <https://www.warren.senate.gov/download/20210225-letter-to-ice-and-dhs-re-forced-deportations-of-asylum-seekers>

³ See e.g. *The Accreditation Con: A Broken Prison and Detention Facility Accreditation System That Puts Profits Over People*, The Office of Senator Elizabeth Warren, Dec. 14, 2020, <https://www.warren.senate.gov/imo/media/doc/The%20Accreditation%20Con%20-%20December%202020.pdf>; Tom O'Connor and Naveed Jamali, *Under Pressure on Immigration, Biden Gives ICE A Pass on Private Prison Ban*, Newsweek, Feb. 19, 2021; <https://www.newsweek.com/under-pressure-immigration-biden-gives-ice-pass-private-prison-ban-1570652>; Noah Lanard, *Biden Pledged to Close For-Profit ICE Detention Centers. Will He Follow Through?*, Mother Jones, Jan. 27, 2021.

5. This Court has subject-matter jurisdiction and personal jurisdiction under 5 U.S.C. §§ 552(a)(4)(B) and 552(a)(6)(C)(i). The Court also has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 2201(a), and 2202. Venue lies in this district under 5 U.S.C. § 552(a)(4)(B) because Plaintiff resides in and has its principal place of business here.

6. Plaintiff has exhausted any and all administrative remedies in connection with its FOIA requests, as detailed below.

PARTIES

7. Plaintiff Al Otro Lado is a non-profit, non-partisan organization based primarily in Los Angeles, California. Al Otro Lado is a legal services organization serving indigent deportees, migrants, refugees and their families. Al Otro Lado's mission is to coordinate and to provide screening, advocacy and legal representation for individuals in immigration proceedings and detained by DHS, to seek redress for civil rights violations, and to provide assistance with other legal and social service needs. Al Otro Lado regularly provides information and analysis to the media and the general public, as well as to international human rights advocacy organizations and human rights monitoring bodies. Al Otro Lado actively shares and disseminates information about its work and conditions on the U.S.-Mexico border and in immigration detention through its various social media

accounts and website.⁴ Disseminating information to the public is a critical component of Al Otro Lado's work. Al Otro Lado does this at no cost to the public.

8. Defendant ICE is an agency within the meaning of 5 U.S.C. § 552(1)(f). ICE has possession, custody, and control of records responsive to Plaintiff's FOIA requests.

9. Defendant DHS is an agency within the meaning of 5 U.S.C. § 552(1)(f). DHS has possession, custody, and control of records responsive to four of Plaintiff's FOIA requests.

10. Defendant DHS CRCL is an agency within the meaning of 5 U.S.C. § 552(1)(f). CRCL has possession, custody, and control of records responsive to one of Plaintiff's FOIA requests.

11. Defendant USCIS is an agency within the meaning of 5 U.S.C. § 552(1)(f). USCIS has possession, custody, and control of records responsive to one of Plaintiff's FOIA requests.

FACTUAL BACKGROUND

12. ICE detained Anthony Jones since April 11, 2019.⁵ Despite ICE's knowledge of Mr. Jones' hypertension and multiple COVID-19 outbreaks at

⁴ See e.g. https://twitter.com/AlOtroLado_Org; https://www.instagram.com/alotrolado_org/?hl=en; <https://www.facebook.com/AlOtroLadoOrg/>; <https://alotrolado.org/>.

⁵ *Detainee Death Report: JONES*, Anthony, Immigration and Customs Enforcement, updated Feb. 11, 2021, <https://www.ice.gov/doclib/foia/reports/ddrAnthonyJones.pdf>.

ACDC, they kept him detained.⁶ ICE was also unable to deport Mr. Jones to the Bahamas during that time, but continued to detain him anyway. Throughout the course of his detention Mr. Jones had several disputes with medical staff at ACDC regarding the medications they prescribed him.

13. At around 7 a.m. on December 17, 2020, Mr. Jones requested to go to the medical unit at ACDC. An ACDC guard told him to wait until they finished counting everyone in the unit. Approximately an hour later, Mr. Jones told a nurse at ACDC that he had chest pains and burning in his arms. At 9:13 a.m., ACDC staff found Mr. Jones slumped over and unresponsive. At 9:59 a.m. emergency medical services personnel pronounced Mr. Jones dead of cardiac arrest. Mr. Jones' death was one of 22 deaths in adult ICE detention since the beginning of 2020.⁷

⁶ *ICE Detainee Statistics*, Immigration and Customs Enforcement, updated Mar. 1, 2021, <https://www.ice.gov/coronavirus>

⁷ *Deaths at Adult Detention Centers*, American Immigration Lawyers Association, updated Feb. 8, 2021, <https://www.aila.org/infonet/deaths-at-adult-detention-centers>.

14. Many of these deaths involved negligence and carelessness on the part of ICE and its contractors.⁸ ACDC itself has been the subject of multiple allegations of neglect and abuse towards detained immigrants.⁹

15. On January 14, 2021, six ICE officers attacked at least two asylum seekers at WCC. On information and belief the last names of five of those officers are Davis, Cain, Martinez, Creekmore, and Miller. These officers tripped the two asylum seekers to the ground, grabbed them by their necks, and forcibly fingerprinted them. One of the officers knelt on the back of one of the asylum seekers, even after he told the officer that he could not breathe.

16. These assaults are part of a pattern of abuse against detained immigrants by ICE officers employed by the New Orleans ICE Field Office and their private prison contractors.¹⁰ It is of vital importance that the public be fully

⁸ See e.g. *The Trump Administration's Mistreatment of Detained Immigrants: Deaths and Deficient Medical Care by For-Profit Detention Contractors*, Committee on Oversight and Reform and Subcommittee on Civil Rights and Civil Liberties-U.S. House of Representatives, Sep. 2020, <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2020-09-24.%20Staff%20Report%20on%20ICE%20Contractors.pdf>; Terp S, Ahmed S, Burner E, et al. *Deaths in Immigration and Customs Enforcement (ICE) detention: FY2018-2020*. *AIMS Public Health*. 2021;8(1):81-89. Published 2021 Jan 11. doi:10.3934/publichealth.2021006; Ryan Devereaux, *ICE Detainee Who Died of COVID-19 Suffered Horrifying Neglect*, *The Intercept*, May 24, 2020, <https://www.nbcnews.com/politics/immigration/24-immigrants-have-died-ice-custody-during-trump-administration-n1015291>

⁹ See e.g. Alissa Zhu, *'Treated like hell': Mississippi ICE detainees say they don't get enough food, medical care*, *Mississippi Clarion Ledger*, Dec. 20, 2019, <https://www.clarionledger.com/story/news/local/2019/12/20/mississippi-ice-detainees-say-they-dont-get-enough-food-medical-care/2618866001/>; Alissa Zhu, *Detainees allege abuse, torture at Mississippi ICE detention center*, *Mississippi Clarion Ledger*, Nov. 16, 2020, <https://www.clarionledger.com/story/news/2020/11/17/detainees-allege-abuse-torture-mississippi-ice-detention-center/6174998002/>

¹⁰ Senators Elizabeth Warren, Cory A. Booker et. al, *Letter to ICE and DHS re Forced Deportations of Asylum Seekers*, Feb. 25, 2021, <https://www.warren.senate.gov/download/20210225-letter-to-ice-and-dhs-re-forced-deportations-of-asylum-seekers>

informed of any and all abuse by ICE officers funded through their tax dollars. It is of vital importance that the public be fully informed of the consequences of the government's choices in detaining people and in running detention centers directly or indirectly.

ICE Requests

17. On February 1, 2021, Al Otro Lado sent a FOIA email to ICE requesting:

1. All Mortality Reviews created by the Immigrant Health Services Corps ("IHSC") regarding the death of Anthony Jones aka Henry Missick (<https://www.ice.gov/news/releases/bahamian-man-ice-custody-passes-away-mississippi>) . These reviews may be found in the Medical Quality Management Unit ("MQMU") Sharepoint Folder as described by, e.g., Section F.1.B (page 7) of IHSC's Mortality Review Policy: <https://www.documentcloud.org/documents/6025551-IHSC-Operations-Memorandum-Mortality-Review.html>.
2. All records relied upon to create the above mortality review
3. Any communications or regarding this event between IHSC and CoreCivic and between IHSC and any people employed at Adams County Detention Center ("ACDC").
4. Any Root Cause Analysis created by the IHSC for any Sentinel Event occurring at ACDC between January 1, 2019 to Present.

18. On February 2, 2021, ICE acknowledged receipt of the above FOIA request and invoked a 10-day extension pursuant to 5 U.S.C. § 552(a)(6)(B). However, ICE has yet to issue a response to the request. This request has now been pending for 75 business days.

19. On February 1, 2021, Al Otro Lado sent a FOIA email to ICE requesting:

1. Any communications containing the keywords “Anthony Jones” between the ICE Office of Congressional Relations and the following:
 - a. Senate Judiciary Committee
 - b. House Judiciary Committee
 - c. Senate Judiciary Committee, Subcommittee on Immigration, Refugees and Border Security
 - d. House Judiciary Committee, Subcommittee on Immigration, Citizenship, Refugees, Border Security and International Law,
 - e. Senate Homeland Security and Governmental Affairs Committee
 - f. House Homeland Security Committee
 - g. Senate Appropriations Committee
 - h. House Appropriations Committee
 - i. The offices of Representative Michael Guest and Senators Roger Wicker and Cindy Hyde-Smith
2. Any investigation reports conducted by the ICE’s Office of Professional Responsibility and all documents related to investigation of the death of Anthony Jones.
Any electronic communications including but not limited to e-mails, text messages, and instant messages on any platform, to and from New Orleans Field Office Director Dianne Witte containing the words "Anthony Jones." Her email address is diane.l.witte@ice.dhs.gov. The time range for this search should be from December 16, 2020 to the date the officer engages in this search.
3. Any electronic communications including but not limited to e-mails, text messages, and instant messages on any platform, to and from New Orleans Assistant Field Office Director Robert Hagan containing the words "Anthony Jones." His email address is Robert.G.Hagan@ice.dhs.gov and his cell phone number is 318-485-1236. The time range for this search should be from December 16, 2020 to the date the officer engages in this search.

20. On February 2, 2021, ICE acknowledged receipt of the above FOIA request and invoked a 10-day extension pursuant to 5 U.S.C. § 552(a)(6)(B). However, ICE has yet to issue a response to the request. This request has now been pending for 75 business days.

21. On February 1, 2021 Al Otro Lado sent a FOIA email to ICE making the following request:

1. Please provide all reports, memoranda, or audits created or received on or after January 1, 2019, by the ICE Detention Standards Compliance Unit for Adams County Detention Center ("ACDC").
2. Separately, please provide any communications occurring on or after January 1, 2019, between ICE's Detention Standards Compliance Unit and CoreCivic or any of its subcontractors regarding compliance or non-compliance with ICE's Performance-Based National Detention Standards.
3. All Significant Incident Reports ("SIR") and any associated records relating to ACDC or immigrants detained therein between January 1, 2019 and the present. ICE's SIR policy is detailed here:
https://www.dhs.gov/sites/default/files/publications/privacy_pia_23_ice_sen.pdf.
4. All documents pertaining to Detainee Reporting and Information Line calls made from ACDC between January 1, 2020 and the present. Information about the reporting line can be found here:
<https://www.ice.gov/contact/detention-information-line#:~:text=The%20ICE%20ERO%20Detention%20Reporting,%2D888%2D351%2D4024>.
5. All records concerning the names, number, and qualifications of any and all full-time, part-time and contracted medical staff employed or contracted to work at ACDC in November and December of 2020.

22. On February 2, 2021, ICE acknowledged receipt of the above FOIA request and invoked a 10-day extension pursuant to 5 U.S.C. § 552(a)(6)(B). However, ICE has yet to issue a response to the request. This request has now been pending for 75 business days.

23. On February 2, 2021 Al Otro Lado submitted the following FOIA request to ICE:

1. Any and all records including relating to use of force by employees of ICE on immigrant detainees at Winn Correctional Center on January 14, 2021.
2. Any reports or documents regarding use of force at Winn Correctional Center on January 14, 2021, including but not limited to
 - a. All Significant Incident Reports (“SIR”)
 - b. All reports, memoranda, and incident reports sent to the New Orleans ICE Field Office Director pursuant to any relevant ICE national detention standard.
 - c. All audiovisual recordings sent from the to the New Orleans ICE Field Office Director pursuant to any relevant ICE national detention standard.
3. Any communication sent to or from the New Orleans ICE Field Office regarding any use of force incident at Winn Correctional Center on January 14, 2021. This search should contain, but should not be limited to, a keyword search or emails and instant messages for following the following terms “Winn” and "use of force” between January 14, 2021 and the present. A search should also be done for any communications between the New Orleans ICE Field Office and the ICE Office of Professional Responsibility, the Department of Homeland Security, Office of the Inspector General and the Federal Bureau of Investigation regarding any use of force incident on January 14, 2021.
4. All video, audio, or audiovisual recordings of the kitchen at Winn Correctional Center on January 14, 2021 between 11:00am and 4:00pm .

5. Documents identifying the persons present in kitchen at Winn Correctional Center on January 14, 2021 between 11:00am and 4:00pm .
6. Documents identifying the persons present in the medical unit of Winn Correctional Center on January 14, 2021 between 11:00am and 4:00pm .
7. Any contracts or agreements between any local government and United States government and its agencies relating to the operation of Winn Correctional Center.

24. On February 9, 2021, ICE acknowledged receipt of the above FOIA request and invoked a 10-day extension pursuant to 5 U.S.C. § 552(a)(6)(B). However, ICE has yet to issue a response to the request. This request has now been pending for 74 business days.

DHS CRCL Request

25. On February 1, 2021 Al Otro Lado sent a FOIA email to DHS CRCL requesting:

1. All records created, sent, or received by regarding complaints received by CRCL about or from ICE detainees at Adams County Detention Center (“ACDC”) since January 1, 2019.
2. All records CRCL sent to or received from the agency's subject matter experts (a medical document, a mental health expert, an environmental health and safety expert regarding ACDC or containing the keywords “Adams,” “ACCC,” or “ACDC” since January 1, 2019.
3. All records created, sent, or received by regarding the attached October 7, 2020 complaint regarding treatment of detained persons at ACDC.
<https://www.freedomforimmigrants.org/crcl/2020/10/8/re-immigration-and-customs-enforcement-officers-use-of-torture-to-coerce-immigrants-into-signing-immigration-documents-at-adams-county-correctional-facility>

26. DHS CRCL has yet to issue a response to the request. This request has now been pending for 75 business days.

USCIS Request

27. On February 3, 2021 Al Otro Lado sent a FOIA email to USCIS requesting “The complete A file of Anthony Jones (A079451300). Please note that Mr. Jones is deceased as he died in ICE detention. See attached ICE death notice. As such, please release the A file to our organization” and attached ICE’s death notification for Mr. Jones.

28. Pursuant to 6 CFR § 5.3(a), USCIS may release the records of a deceased person if the requestor submits “proof that that individual is deceased.”

29. USCIS has yet to issue a response to the request. This request has now been pending for 73 business days.

30. Because Defendants have failed to timely respond to these FOIA requests, Al Otro Lado has constructively exhausted its administrative remedies.

PLAINTIFF’S CLAIMS FOR RELIEF

COUNT ONE

ICE’s Wrongful Withholding of Records Responsive to Al Otro Lado’s FOIA Request

31. In its four February 1 and 2, 2021 FOIA requests, Al Otro Lado properly asked for records within the possession, custody, and control of ICE.

32. ICE has failed to conduct an adequate search in response to Al Otro Lado's FOIA requests as required by 5 U.S.C. § 552(a)(3).

33. ICE is wrongfully withholding records responsive to Al Otro Lado's FOIA requests as required by 5 U.S.C. § 552(a)(6).

34. By failing to timely release all requested records in full to Al Otro Lado, ICE is in violation of FOIA.

35. Al Otro Lado is therefore entitled to injunctive and declaratory relief requiring immediate processing and disclosure of the requested records.

COUNT TWO
DHS' and DHS CRCL's Wrongful Withholding of Records Responsive to Al Otro Lado's FOIA Request

36. In its February 1, 2021 FOIA request, Al Otro Lado properly asked for records within the possession, custody, and control of DHS and its CRCL.

37. DHS has failed to conduct an adequate search in response to Al Otro Lado's FOIA request as required by 5 U.S.C. § 552(a)(3).

38. DHS is wrongfully withholding records responsive to Al Otro Lado's FOIA request as required by 5 U.S.C. § 552(a)(6).

39. By failing to timely release all requested records in full to Al Otro Lado, DHS is in violation of FOIA.

40. Al Otro Lado is therefore entitled to injunctive and declaratory relief requiring immediate processing and disclosure of the requested records.

COUNT THREE
**USCIS' Wrongful Withholding of Records Responsive to Al Otro Lado's
FOIA Request**

41. In its February 1, 2021 FOIA request, Al Otro Lado properly requested records within the possession, custody, and control of USCIS.

42. USCIS has failed to conduct an adequate search in response to Al Otro Lado's FOIA request as required by 5 U.S.C. § 552(a)(3).

43. USCIS is wrongfully withholding records responsive to Al Otro Lado's FOIA request as required by 5 U.S.C. § 552(a)(6).

44. By failing to timely release all requested records in full to Al Otro Lado, USCIS is in violation of FOIA.

45. Al Otro Lado is therefore entitled to injunctive and declaratory relief requiring immediate processing and disclosure of the requested records.

REQUESTED RELIEF

46. WHEREFORE, Plaintiff respectfully requests that this Court:

- 1) Order ICE to immediately and fully process Plaintiff's FOIA requests and disclose all non-exempt records to Plaintiff;
- 2) Issue a declaration that Plaintiff is entitled to immediate processing and disclosure of the requested records;
- 3) Provide for expeditious proceedings in this action;

- 4) Retain jurisdiction of this action to ensure no agency records are wrongfully withheld;
- 5) Award Plaintiffs their costs and reasonable attorneys' fees in this action; and
- 6) Grant such other relief as the Court may deem just and proper.

Date: April 22, 2021

Respectfully Submitted

 /s/ Sasha R. Novis

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