

Exhibit 1



**RAPID DEFENSE
NETWORK**

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Freedom of Information Act Office
United States Immigration & Customs Enforcement
500 12th Street, SW, Stop 5009
Washington, DC 20536
Email: ice-foia@dhs.gov

Re: Freedom of Information Act Request

To the FOIA Officer:

This is a request under the Freedom of Information Act, 5 U.S.C. § 552, submitted by the Transgender Law Center ("TLC") and Rapid Defense Network ("RDN"). We respectfully request copies of the following records:

- Any records related to any discretionary decisions by ICE from January 1, 2015 to the present to detain a transgender or intersex person who has physical and mental health needs and who were found to be subject to mandatory detention pursuant to 8 U.S.C. §1226(c); Immigration and Nationality Act ("INA") Section 236(c);
- Any records related to any discretionary decisions by ICE from January 1, 2015 to the present to detain a transgender or intersex person who has physical and mental health needs and who were found to be subject to mandatory detention pursuant to 8 U.S.C. §1225(b); INA §235(b);



Transgender Law Center



**RAPID DEFENSE
NETWORK**

- Any records related to any discretionary decisions by ICE from January 1, 2015 to the present to detain a transgender or intersex person who has physical and mental health needs and who were found to be subject to mandatory detention pursuant to 8 U.S.C. §1231;
- Any records related to the evaluation of an initial and continued decision to detain a transgender or intersex person from January 1, 2015 to the present;
- Any records related to any Field Office Director exercising prosecutorial discretion against keeping a transgender or intersex detainee in detention from January 1, 2015 to the present;
- Any records related to any Field Office Director exercising prosecutorial discretion in favor of keeping a transgender or intersex detainee in detention from January 1, 2015 to the present;
- All records from January 1, 2015 to the present related to assessments and housing placements of each transgender and/or intersex detainee as required pursuant to 6 C.F.R. § 115.41; and
- Any policies, procedures, guidelines, instructions, quotas or other materials concerning discretionary decisions to detain or not detain a transgender or intersex person from January 1, 2015 to the present.

For hard-copy documents and documents stored electronically, we request that you produce them to us in .pdf format. For audio or video files, please produce them to us in .mp3 or .mp4 format.

Release of these records is in the public interest because these records will help inform the public regarding the treatment of people who identify as transgender in the custody of the Department of Homeland Security (“DHS”), Immigration and Customs Enforcement (“ICE”). These records are likely to contribute significantly to the public’s understanding of the conditions of detention for immigration detainees who identify as transgender and ICE’s operation and oversight of detention facilities that house transgender detainees. This information is not in the commercial interest of TLC and RDN, which are nonprofit organizations. Both TLC and RDN intend to make these records and/or reports using information from these records available to the general public via their websites, transgenderlawcenter.org and defensenetwork.org. Therefore, pursuant to 5 U.S.C. § 552(a)(4)(A)(iii), we are entitled to a fee waiver for this request. If you deny this request, however, and the fees will exceed \$250, please notify us of the charges before you fulfill our request so that we may decide whether to pay the fees or appeal your denial of our request for a waiver.

As you know, FOIA provides that if portions of a document are exempt from release, the remainder must be segregated and disclosed. Therefore, please send us all non-exempt portions of the records we have requested and justify any deletions by reference to specific exemptions of the FOIA. We reserve the right to appeal your decision to withhold any materials.



Transgender Law Center



**RAPID DEFENSE
NETWORK**

We are seeking information about the treatment of people who identify as transgender who are in the custody of ICE, a federal agency. We therefore request expedited processing for this request, which meets the Department of Homeland Security's established criteria for processing requests on an expedited basis: a lack of expedited processing could reasonably be expected to pose an imminent threat to the life or physical safety of an individual. Internal and independent investigations have documented serious, ongoing and unaddressed problems at facilities housing transgender detainees, including inadequate medical care, punitive use of solitary confinement, and unsanitary and dangerous living conditions.¹ Two transgender migrants have died after suffering medical neglect in ICE custody in recent years.² TLC and RDN intend to use the records obtained via this FOIA request in their efforts to end the detention of transgender people in such dangerous and deadly conditions.

Please contact us via telephone or email, rather than by U.S. mail, in reference to this request. You may communicate with Lynly Egyes, Legal Director at Transgender Law Center, who can be reached at 510-587-9696 or lynly@transgenderlawcenter.org, or Sarah Gillman, Legal Director at Rapid Defense Network, who can be reached at 212-843-0910 or sarah@defensenetwork.org.

We look forward to receiving your response within 20 working days, as required by law.

Sincerely,

Lynly Egyes, Legal Director
Transgender Law Center

Sarah Gillman, Legal Director
Rapid Defense Network

¹ E.g., Dep't of Homeland Security Office of Inspector General, *Violations of Detention Standards amid COVID-19 Outbreak at La Palma Correctional Center in Eloy, AZ*, (Mar. 30, 2021), <https://www.oig.dhs.gov/sites/default/files/assets/2021-04/OIG-21-30-Mar21.pdf> (documenting health hazards and mistreatment of detainees at facility where some transgender detainees had been held); Physicians for Human Rights, *Praying for Hand Soap and Masks: Health and Human Rights Violations in U.S. Immigration Detention during the COVID-19 Pandemic*, (January 2021), <https://phr.org/wp-content/uploads/2021/01/PHR-Praying-for-Hand-Soap-and-Masks.pdf> (detainee at Otay Mesa Detention Center reported transgender detainee was placed in solitary confinement in retaliation for helping publicize unhealthy conditions).

² See Tim Fitzsimons, *Democratic lawmakers call on ICE to release transgender migrants*, NBC News (Jan. 16, 2020), <https://www.nbcnews.com/feature/nbc-out/democratic-lawmakers-call-ice-release-transgender-migrants-n1116621>.