

Exhibit 5



Transgender Law Center



**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:

- Copies of each weekly transgender care update, from January 1, 2015 to the present. This is a record reflecting information that may include, but is not limited to, the number of transgender and/or intersex people in custody; the number in solitary confinement, protective custody, administrative segregation, or medical isolation; their detention facility location; any medical problems or mental health needs;
- Records showing the number of transgender and/or intersex people in ICE custody by year from January 1, 2015 to the present; and
- Records, including meeting agendas and memoranda, relating to or created in connection with quarterly working group meetings as required by Section 7(b) of the June 19, 2015 memorandum, “Further Guidance Regarding the Care of Transgender Detainees,” which is available at



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<https://www.ice.gov/sites/default/files/documents/Document/2015/TransgenderCareMemorandum.pdf>.

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 defensenetowork.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.

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

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).



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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,

A handwritten signature in black ink, appearing to read "Lynly Egyes".

Lynly Egyes, Legal Director
Transgender Law Center

A handwritten signature in black ink, appearing to read "Sarah Gillman".

Sarah Gillman, Legal Director
Rapid Defense Network

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>.