

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

SUSAN B. LONG,)
 Peck Hall)
 601 E. Genesee Street)
 Syracuse University)
 Syracuse, NY 13202-3117)
)
 DAVID BURNHAM,)
 P.O. Box 60)
 Spruce Head ME 04859)
)
 and)
)
 TRAC REPORTS, INC.)
 P.O. Box 35532)
 Syracuse, NY 13235)
)
 Plaintiffs,)
)
 v.)
)
 IMMIGRATION AND CUSTOMS)
 ENFORCEMENT,)
 500 12th Street, SW)
 Washington, DC 20536)
)
 Defendant.)
 _____)

Civil Action No. 22-2655

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

INTRODUCTION

1. This action is brought under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, to compel Immigration and Customs Enforcement (“ICE”) to produce records responsive to FOIA requests for descriptive information concerning the current versions of two databases used by ICE: the Enforcement Integrated Database (“EID”) and the Integrated Decision Support Database (“IIDS”). The information requested includes the name and description of each table

and field of information contained in the two databases, and the definitions of all codes used in them. This information is found in tables that are part of each of the two databases. In previous litigation between two of the plaintiffs and ICE, this Court has ordered ICE to produce information responsive to similar requests for the databases as they existed in July 2014, but ICE has taken the position that current information is outside the scope of the requests at issue in that litigation. The requests that are the subject of this complaint explicitly seek information current as of the date ICE conducts a search for responsive information. ICE has unlawfully withheld records responsive to these requests.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action under 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331, and venue is proper in this District under 5 U.S.C. § 552(a)(4)(B).

PARTIES

3. TRAC Reports, Inc., is a 501(c)(3) organization that was formed to make available data and analyses regarding government performance in the belief that high quality information about the government, especially when easily accessible on the web, is essential for smarter oversight and better-informed public debate. The organization makes data, information and analyses regarding government performance available for research, public interest, academic, scientific, and journalistic purposes, and it provides financial support for the efforts of plaintiffs Long and Burnham to obtain information from the government in support of their research and that of other scholars and journalists.

4. Plaintiff Susan B. Long is an Associate Professor of Managerial Statistics at the Martin J. Whitman School of Management at Syracuse University. Professor Long serves as Co-Director of the Transactional Records Access Clearinghouse (“TRAC”), a data gathering, data

research, and data distribution organization associated with Syracuse University (and not formally affiliated with TRAC Reports, Inc.). TRAC was established in 1989 and has its headquarters at Syracuse University. The purpose of TRAC is to provide the American people and institutions of oversight, such as Congress, news organizations, public interest groups, businesses, scholars, and lawyers, with comprehensive information about the staffing, spending, and enforcement activities of the federal government. Plaintiff Long also currently serves as the Co-Director of TRAC Reports, Inc.

5. Plaintiff David Burnham is Co-Director of TRAC and TRAC Reports, Inc., a long-time journalist, and an Associate Research Professor at the S.I. Newhouse School of Public Communications at Syracuse University.

6. Although Syracuse University supports the efforts of the Transactional Records Access Clearinghouse (TRAC), the University is not a party to or otherwise affiliated with this litigation. The Clearinghouse, under co-directors Professors Burnham and Long, conducts scholarly research, part of which involves the collection of data from federal government agencies. Plaintiffs Burnham and Long are filing this action in their individual capacities as academic researchers and not as representatives of Syracuse University. Plaintiff TRAC Reports, Inc., is not an affiliate or representative of Syracuse University.

7. Defendant ICE is an agency of the federal government of the United States and has possession of and control over records Plaintiffs seek.

FACTS

8. By email dated June 27, 2021, plaintiffs Long and Burnham submitted a FOIA request to ICE. The request provided the following description of the records requested:

Under the provisions of the Freedom of Information Act (FOIA) we are requesting a copy of all descriptive information -- including the name and description of each table

and field of information along with the definition of all codes used -- contained in the current version of each of the following two databases:

- the Enforcement Integrated Database (EID) and
- the ICE Integrated Decision Support Database (IIDS).

By “current version” we mean as of the date of this request, or the date of the search if it is later.

This information is found in tables that are part of each of the two databases. Some of the specific fields of information were previously furnished to TRAC in response to an earlier FOIA request concerning the EID. Other tables were furnished which contained the definition of codes that were used in recording information in the EID and the IIDS.

We believe that the current information requested is included in the requests and responsive records that are at issue in *Long v. Immigration & Customs Enforcement*, No. 14-109-APM (D.D.C.), and is required to be produced under the court’s recent order in that case. However, ICE has stated to the court that it believes current information concerning the databases is outside the scope of that case. Although we disagree with ICE’s position, we are submitting this request to ensure that there can be no dispute that we are invoking our rights under FOIA to current information concerning the databases.

Part One: We request that ICE provide the most current records from the EID and IIDS that provide the following information:

- The name of each table and field
- All other descriptive information concerning each specific table and field that is recorded there.

Part Two: Many of the information fields in the EID and IIDS utilize some sort of abbreviation or code to record the information. We request that ICE provide from the EID and IIDS a current copy of any code files, lookup tables, or other records which translate each code into its corresponding meaning.

Format requested. We ask that the data be output in a csv, tab-delimited, or similar file that retains the structure of the underlying data and can therefore readily be read into a database. Because a pdf format strips the structure of the underlying data from the file, a pdf format does not meet our requirements.

The request also sought a fee waiver based on the plaintiffs’ status as educational and media requesters.

9. In an email dated April 18, 2022, ICE's FOIA office confirmed that the request had been received by ICE on June 28, 2021.

10. ICE has never responded to the June 27, 2021, FOIA request.

11. By email dated July 1, 2022, plaintiffs TRAC Reports, Inc., Long, and Burnham submitted a FOIA request to ICE. Aside from adding TRAC Reports, Inc., as a requester, the request was substantively the same as the one submitted by plaintiffs Long and Burnham on June 27, 2021. The language used in the request was identical to that quoted in paragraph 8 above. The request also sought a fee waiver based on the plaintiffs' status as educational and media requesters.

12. ICE has not responded to the July 1, 2022, FOIA request.

13. More than 20 business days have elapsed since ICE's receipt of both the June 27, 2021, FOIA request and the July 1, 2022, FOIA request, and ICE has not notified plaintiffs of any determination of whether it will comply with the request or the reasons therefor.

FIRST CLAIM FOR RELIEF

14. Plaintiffs Long and Burnham have a statutory right to the records they seek in response to their June 27, 2021, FOIA request. ICE has no legal basis for failing to disclose these records to plaintiffs.

15. Under 5 U.S.C. § 552(a)(6)(A)(i), ICE was required to make a determination and notify plaintiffs of their right to appeal any adverse determination within 20 working days from receipt of their request. More than 20 working days have passed and ICE has provided no response to the June 27, 2021, FOIA request.

16. Under 5 U.S.C. § 552(a)(6)(C)(i), plaintiffs have exhausted their administrative remedies.

SECOND CLAIM FOR RELIEF

17. Plaintiffs have a statutory right to the records they seek in response to their July 1, 2022, FOIA request. ICE has no legal basis for failing to disclose these records to plaintiffs.

18. Under 5 U.S.C. § 552(a)(6)(A)(i), ICE was required to make a determination and notify plaintiffs of their right to appeal any adverse determination within 20 working days from receipt of their request. More than 20 working days have passed and ICE has provided no response to the July 1, 2022, FOIA request.

19. Under 5 U.S.C. § 552(a)(6)(C)(i), plaintiffs have exhausted their administrative remedies.

PRAYER FOR RELIEF

WHEREFORE, plaintiffs request that this Court:

- (1) Declare that ICE's withholding of the requested records is unlawful;
- (2) Order Defendants to make the requested records available to plaintiffs;
- (3) Award plaintiffs their costs and reasonable attorneys' fees pursuant to 5 U.S.C. § 552(a)(4)(E); and
- (4) Award such other relief as this Court deems just and proper.

Dated: September 1, 2022

Respectfully submitted,
/s/ Scott L. Nelson
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